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New York

*President*: Mr. Thomson ..... (Fiji)

*The meeting was called to order at 10.10 a.m.*

**Tribute to the memory of His Highness Sheikh Khalifa bin Hamad Al-Thani, former Amir of the State of Qatar**

**The President**: We were informed last week of the passing of His Highness Sheikh Khalifa bin Hamad Al-Thani, the former Amir of the State of Qatar. The former Amir was a visionary leader who oversaw his country's independence and led it to prosperity and the rapid development of its economy. This is a time of grief for the royal family and the Government and the people of Qatar. I would like to convey to them our deepest condolences and to invite the Assembly to join me in observing a minute of silence in honour of His Highness Sheikh Khalifa bin Hamad Al-Thani, the former Amir of the State of Qatar.

*The members of the General Assembly observed a minute of silence.*

**Agenda item 72**

**Report of the International Criminal Court**

**Note by the Secretary-General (A/71/342)**

**Reports of the Secretary-General (A/71/346 and A/71/349)**

**The President**: It is my pleasure to welcome Judge Silvia Alejandra Fernández de Gurmendi, President of the International Criminal Court, to the General Assembly.

It has been 18 years since countries from every region of our world came together in Rome. Bearing in mind the millions of children, women and men who have been victims of unimaginable atrocities that deeply shock the conscience of humankind, and recognizing that such grave crimes threaten the peace, security and well-being of the world, they resolved, for the sake of present and future generations, to establish the International Criminal Court, with jurisdiction over the most serious crimes of concern to the international community, in order to put an end to impunity for the perpetrators of such crimes and thereby to contribute to their prevention.

In the nearly two decades that have passed since then, conscience of the international community continues to be shocked by the atrocities being perpetrated against innocent victims every day. It is therefore imperative that we draw on the spirit that led to the establishment of the Court, in order to strengthen, not diminish, our resolve to end impunity for the perpetrators of those crimes. I particularly encourage States parties to continue to work to promote the effective functioning of the Court and the universality of the Rome Statute.

This is a time when we should reflect on the Court's important place in the international system in promoting the rule of law and protecting human rights. And we should remember that, whatever our status may be in relation to the Court, we are all united in the shared belief that some crimes are so serious that they call on our collective conscience to act to put an end to impunity for those who perpetrate them. Their victims deserve and demand nothing less from us all.

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It is now my honour to invite Judge Fernández de Gurmendi to take the floor.

**Judge Fernández de Gurmendi** (International Criminal Court): It is an honour to be here today to present the annual report of the International Criminal Court (ICC) (see A/71/342) to the General Assembly.

(*spoke in Spanish*)

I would like to take this opportunity to respectfully greet the Spanish-speaking delegations here before continuing my briefing in the two working languages of the Court, French and English.

(*spoke in English*)

This reporting period has been a very busy year for the ICC, with unprecedented judicial activity. A new chapter opened for the Court with its transition to its new, purpose-built permanent premises, and we were honoured to have Secretary-General Ban Ki-moon speak at the opening ceremony in April.

I would like to begin my briefing by expressing my deep gratitude to Mr. Ban for his unwavering, principled and strong support of the Court throughout his term as Secretary-General. I also greatly appreciate his dedicated service to the international community and his enormous efforts in furtherance of peace, justice, tolerance, the rule of law and the protection of human rights. I would also like to take this opportunity to warmly congratulate Mr António Guterres on his appointment as the next Secretary-General. The Court looks forward to working with him.

As always, the Court greatly appreciates the cooperation it receives from the United Nations. This cooperation ranges from logistical assistance in the field to administrative and personnel arrangements, judicial assistance and the provision of services such as those relating to security, satellite communications and the use of conference facilities. In accordance with its Relationship Agreement with the United Nations, the Court reimburses the Organization for the assistance it receives.

Earlier this year, the Court was pleased to conclude a memorandum of understanding with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic, in line with previous memorandums concluded with other United Nations peacekeeping missions in order to facilitate modalities for cooperation. The memorandum of understanding provides for assistance for all parties and participants in the judicial proceedings.

The past year has been very eventful in terms of judicial developments at the ICC. Three judgements were issued since my last report (see A/70/PV.48). Two trials were held in their entirety, two are ongoing and another is set to start soon. Following convictions, reparations proceedings are under way in four cases.

In the situation in the Central African Republic, Mr. Jean-Pierre Bemba Gombo was convicted in the first instance for failure to punish or prevent crimes committed by his subordinates. He was sentenced to an 18-year term of imprisonment for rape as a war crime and a crime against humanity, to be served concurrently with a 16-year sentence in relation to murder as a war crime and a crime against humanity, and to the war crime of pillaging. The Trial Chamber stressed that the especially grave nature and consequences of sexual crimes, particularly against children, was acknowledged by the States parties in the Rome Statute. The Trial Chamber further found that the instances of rape were exceedingly grave with regard to both the cultural context and the lasting damage to the victims, their families and communities. Both the judgment on conviction and the sentence are currently being appealed before the Appeals Chamber. Reparations proceedings have begun.

The Court held its first trial in relation to the situation in Mali, which lasted only three days, after the accused admitted his guilt. Mr. Ahmad Al-Faqi Al-Mahdi, who used to be a prominent figure of a splinter group of Al-Qaida, pleaded guilty to the war crime of attacking protected objects, in relation to the destruction of 10 buildings of a religious and historical character in Timbuktu, Mali. He was sentenced to nine years of imprisonment, and that sentence has now become final since it was not appealed.

In rendering its sentence, the Trial Chamber held that crimes against property are generally of lesser gravity than crimes against persons. However, the crime for which Mr. Al-Mahdi was convicted was of significant gravity, taking into consideration the symbolic and emotional value of the buildings, their religious character and the discriminatory religious motive invoked for the destruction.

From September 2015 to April 2016, the Court held its first trial on charges of offences against the administration of justice in the *Bemba et al.* case. On

19 October, the Trial Chamber found the five accused guilty of various offences against the administration of justice, including corruptly influencing witnesses. Penalties will be pronounced at a subsequent date. The verdict is not yet final.

We have also commenced the first trial in the situation in Côte d'Ivoire, against Mr. Laurent Gbagbo and Mr. Charles Blé Goudé. The two accused are charged with the crimes against humanity of murder, rape, persecution and other inhuman acts allegedly committed during post-election violence between December 2010 and April 2011.

In the situation in Uganda, Pre-Trial Chamber II confirmed a total of 70 charges of war crimes and crimes against humanity against Mr. Dominic Ongwen of the Lord's Resistance Army, in relation to alleged acts of murder, rape, sexual slavery, torture, use of child soldiers and other crimes. The trial is set to start on 6 December. That is a significant development because more than 10 years have elapsed since arrest warrants were issued against Mr. Ongwen, Mr. Joseph Kony and others.

In another new development for the Court, for the first time we have sent convicted persons to serve their sentences in one of our States parties. Mr. Thomas Lubanga Dyilo and Mr. Germain Katanga both expressed preference to serve their sentences in their home country, the Democratic Republic of the Congo, and that was made possible through the conclusion of ad hoc agreements with that country for that purpose, for which we are grateful.

Mr. Katanga's sentence was concluded during the reporting period, after a panel of the Appeals Chamber decided to reduce it following a mandatory review after two thirds of the sentence were served. The judges concluded that there were several factors that favoured reducing the sentence, including Mr. Katanga's early and continuing willingness to cooperate with the Court in its investigations and prosecutions, the fact that he had repeatedly and publicly taken responsibility for the crimes for which he was convicted and his expression of regret for the harm caused to the victims by his actions.

On 27 January, Pre-Trial Chamber I granted the request of the Prosecutor to open an investigation into the situation in Georgia, in relation to crimes against humanity and war crimes allegedly committed between 1 July and 10 October 2008. The Chamber recalled that its decision had the purpose of ensuring judicial control over the Prosecutor's *proprio motu* power to open an investigation, in the absence of a referral by a State party or by the Security Council.

The Chamber's decision makes it clear that the authorization is not limited to any specific incidents or alleged crimes, but that it is precisely the purpose of the investigation to determine which crimes, if any, may be prosecuted. Any future prosecution of specific individuals would again be subject to judicial control of the Pre-Trial Chamber, both at the stage of issuing arrest warrants or summons and at the confirmation of charges.

The process that preceded the Pre-Trial Chamber's decision provided an early opportunity to give a voice to victims in the Court's proceedings. In accordance with the Rome Statute, the Chamber took into consideration representations on behalf of more than 6,000 victims in relation to the proposed investigation. The submission of these representations was facilitated through a field mission undertaken by victim-participation experts from the Registry of the Court.

The Court has continued its work in relation to its unique mandate to order reparations to victims following convictions in the *Lubanga* and *Katanga* cases, and it has initiated the reparations proceedings in the *Bemba* and *Al-Mahdi* cases. At the same time, the Trust Fund for Victims has continued activities under its assistance mandate, which is separate from the judicial proceedings before the Court.

Together with its locally based implementing partners, the Trust Fund has been assisting victims in northern Uganda and the Democratic Republic of the Congo. It is now also planning expansion of its assistance activities to four other situations before the Court, and the Board of Directors has approved an initial budget for this purpose. The Trust Fund for Victims plays a key role in implementing the principles of reparative justice enshrined in the Rome Statute, but to do so effectively, it needs resources. I call upon all States and other donors to support the Trust Fund, so that it may expand and sustain assistance mandate programmes and maintain and increase the financial reserve to complement the payment of Court-ordered reparations awards.

(*spoke in French*)

In total, 10 situations are currently under investigation by the Court, of which 5 were referred

to the Prosecutor by the States concerned. On 21 September, the Prosecutor received a new referral from the Government of Gabon concerning the situation unfolding in that country since May 2016. The Prosecutor is currently conducting a preliminary examination to determine whether the criteria for opening an investigation under the Rome Statute have been met. The Prosecutor is also conducting nine other preliminary examinations on situations unfolding on various continents.

The assistance and cooperation of States remain crucial to the Court's ability to fulfil its mandate. In accordance with the Rome Statute, States parties are obligated to cooperate fully with the Court's investigations and prosecutions. Furthermore, the Security Council resolutions referring the situations in Darfur, in the Sudan, and Libya to the Prosecutor have imposed an obligation on the two States in question to cooperate fully with the Court in the context of those situationsand have urged all other States to do the same.The cooperation of all States, whether or not they are parties to the Rome Statute, is essential to enable impartialand effective investigations. Access to crime scenes and all relevant evidence, victims and witnesses is crucial for the judicial process.

The Court greatly appreciates the numerous States that provide active support. We endeavour to nurture these relations through various initiatives, including cooperation seminars and workshops. There are many priority areas for the Court, but I would particularly like to highlight the continued need for the relocation of witnesses under threat, assistance with financial investigations and the arrest and transfer of suspects. It is of great concern that requests for arrest and transfer issued by the Court remain outstanding with respect to 13 individuals, some of which have not been carried out for over 10 years.

Improving the efficiency and effectiveness of the Court's operations remains my main priority as President of this institution. All organs of the Court have embarked upon reforms to improve its performance. Efforts made in this regard, including the collective efforts of judges to expedite judicial proceedings, have already begun to produce concrete results in recent proceedings.

I have just returned from the second judges' retreat, where we took our reforms further this time by tackling issues relating to trials as well as the legal representation of victims. Once again, by analysing and comparing our experiences, we have identified common ground and best practices. I am confident that the results will soon become visible. In addition, in the context of the overarching effort to improve effectiveness, the Court has made significant progress in developing qualitative and quantitative indicators to measure performance. A report on this progress will be submitted in the coming days to the Assembly of States Parties.

We have also seen recent developments that are not the work of the Court but do contribute to strengthening an effective system of justice based on the Rome Statute. In this respect, I welcome the establishment of the International Criminal Court Bar Association by the defence counsel and the legal representatives of victims — an association with the aim of reinforcing the independence of counsel, strengthening the equality of arms and enhancing the quality of justice of the Court. I fully agree with these objectives. Professional counsel and an effective defence are essential to a fair and efficient system of justice. In this respect, I urge all States to respond favourably to requests for cooperation emanating from defence teams participating in ICC proceedings.

Since my last report, we have welcomed a new member to the family of ICC States parties. I reiterate here my warmest congratulations to the Republic of El Salvador for its historic decision to join the Rome Statute, which is a decision in favour of justice, peace and global solidarity. I was delighted to facilitate the process personally by participating in detailed technical discussions on the Rome Statute with the Salvadorian parliamentarians.

I also welcome the accession of Samoa to the Agreement on the Privileges and Immunities of the International Criminal Court, bringing the total number of parties to the Agreement to 75. I encourage all remaining States parties and other interested States to consider ratifying this Agreement.

Finally, since my last report, six States have ratified the Kampala Amendments to article 8 of the Rome Statue. Eight States have ratified the Amendments on the crime of aggression, bringing the total number of ratifications for both Amendments to 32.

On 26 June 2017, the Amendments on the crime of aggression will have entered into force for 30 States. The Court will have jurisdiction over the crime of aggression once a decision is taken by a two-thirds

majority of the Assembly of States Parties after 1 January 2017 to grant it.

(*spoke in English*)

I would now like to refer to the recent announcements of withdrawals from the Rome Statute, the founding Treaty of the Court. In this regard, I wish to reaffirm the importance of the continued commitment of States and the international community to investigating and prosecuting the most serious crimes and to protecting victims across the world. The past two decades have witnessed huge progress in the consolidation of international criminal justice as a fundamental part of the international community's response to conflict and mass atrocities.

In 1998, the ICC was created by countries with the support of civil society from all continents to investigate and prosecute perpetrators of genocide, crimes against humanity and war crimes, by whomever committed. Over the years, additional States have continued to join the Court and contributed to its effectiveness by cooperating with its activities. In creating the Court as a permanent and independent judicial institution, States recognize the link between justice, peace and sustainable development and reaffirmed their commitment to fighting impunity.

Most recently, the 2030 Agenda for Sustainable Development, in particular Sustainable Development Goal 16, demonstrates that connection. The ICC can contribute to the goal of providing access to justice for all and building effective, accountable and inclusive institutions. The Court was not created to replace or compete with States; on the contrary, States have the duty and indeed the right to investigate and prosecute these crimes themselves in the first place. The role of the Court is to provide justice only when States fail to do so.

Since its creation, the Court has made significant achievements in addressing crimes of concern to the international community as a whole, such as the use of child soldiers, sexual violence in conflict, attacks on civilians and the destruction of cultural property. Crucially, the creation of the ICC has given a voice to victims by allowing them to participate in the Court's proceedings and request reparations. The Trust Fund for Victims associated with the Court has already assisted more than 300,000 victims with physical and psychological rehabilitation as well as material support.

The Court is doing its work and has embarked on a number of important reforms to enhance the speed and quality of prosecutions and judicial proceedings. The important results achieved this year are a clear demonstration of the Court's commitment to delivering high-quality justice.

The work of the Court continues. In order to bring perpetrators of crimes to justice and protect victims across the world equally, it is essential that support for the Court remain strong and that States' participation in the Rome Statute be maintained and enlarged.

**The President**: I thank the President of the International Criminal Court for her briefing.

I now give the floor to the observer of the European Union.

**Mr. Vale de Almeida** (European Union): I have the honour to speak on behalf of the European Union (EU) and its 28 member States. The candidate countries Montenegro, Albania and Serbia; the country of the Stabilization and Association Process and potential candidate Bosnia and Herzegovina; and Ukraine and Georgia align themselves with this statement.

We would like to thank President Fernández de Gurmendi for her presence here in New York and for her comprehensive briefing. We also thank the International Criminal Court (ICC) for its annual report to the United Nations (see A/71/342), covering the period from August 2015 to July 2016, detailing what is described as a particularly busy year for the ICC.

The European Union and its member States consider the fight against impunity for the most serious crimes to be critical for creating a fair and just society by holding the perpetrators accountable and ensuring justice for the victims. We also believe that peace and justice are complementary and not mutually exclusive. We are strong supporters of the International Criminal Court, which is a key institution for helping victims dealing with the most serious kinds of crimes to achieve justice when they cannot do so at the national level.

All perpetrators of such crimes must be held accountable for their actions, and a key element of the Rome Statute is its equal application. In that regard, the establishment of the ICC has given millions of victims of atrocity crimes new hope that justice will be done. States from all over the world have worked together to make this possible. Our strong policy in this respect has a firm institutional foundation in European

Union legislation, which is adjusted to the Court's evolving activity.

The European Union and its member States therefore regret the decisions by the Republic of South Africa and Burundi to withdraw from the Rome Statute. We also note with concern that the Gambia has announced its intention to withdraw. We join Mr. Sidiki Kaba, President of the Assembly of the States Parties to the Rome Statute, in inviting these States to reconsider their position. What was right in 1998 is still right. The world needs the ICC, and the ICC needs the support of every country. We would like to continue our engagement with these countries and with all our other partners in determining how we can all continue to act constructively in furthering the important work of the International Criminal Court.

The primary responsibility for bringing offenders to justice lies with States themselves. Complementarity is a core principle of the Rome Statute. In order to make it operational, all States parties have to prepare and adopt effective national legislation so as to implement the Rome Statute in their national systems. Through various assistance instruments and projects, we support initiatives that focus on encouraging States to cooperate in the fight against impunity for atrocity crimes, including through improved ways to provide mutual legal assistance.

With 23 cases in 10 situations at different stages of their proceedings, 11 situations under preliminary examination and one new investigation by the Prosecutor, the ICC is once again facing an increasing workload this year. It is worth noting that the Court is now conducting preliminary examinations and situation investigations in most regions of the world — Latin America, Asia, Africa and Europe. It remains a hope for justice and accountability in situations that would otherwise be hopeless.

A number of States have demonstrated their trust in that hope by submitting situations to the ICC. We note the important judicial developments as the Court has fulfilled its mandate, as reflected in this year's report. In the context of the Court's increasing workload, we underline how important it is to ensure that it functions efficiently and effectively.

The universality of the Rome Statute, which continues to be one of the main challenges facing the ICC, is essential to ensuring accountability for the most serious crimes of concern to the international community. We will continue to work tirelessly to make the Rome Statute truly universal.

On 3 March, El Salvador deposited its instrument of accession to the Statute. We hope that El Salvador's decision will encourage ratification processes elsewhere in the world. We also note that the threshold of 30 ratifications of the Kampala Amendments on the crime of aggression, as provided for in resolution RC/Res.6 of the Review Conference of the Rome Statute, adopted in 11 June 2010, has been met this year. During the reporting period, the EU continued to engage in promoting the universality of the Rome Statute and the Agreement on Privileges and Immunities, as well as a better understanding of the Court's mandate.

Another continuing fundamental challenge is the need to ensure that States parties cooperate with the ICC and that they do so in accordance with the Security Council resolutions that refer situations to the Court. We note with concern instances of non-cooperation, including those that have been referred to the Security Council. We welcome the response of the President of the Security Council in December 2015 that decisions of the Court concerning non-cooperation were brought to the attention of Council members, and we encourage the Council to find ways to improve the implementation of the obligations created by its two referrals of the situations in Darfur and in Libya.

Non-cooperation with the Court stifles the ICC's capacity to deliver justice. We call on all States to take consistent action to encourage appropriate and full cooperation with the Court, including the prompt execution of arrest warrants. We also reiterate how crucial it is to ensure that all States refrain from helping to shelter or hide perpetrators of the most serious crimes, and that they take the necessary steps to bring those perpetrators to justice in order to end impunity.

We welcome the efforts of States, international organizations and civil society to increase their cooperation with the ICC and their assistance to it. We particularly commend the ongoing United Nations cooperation with the Court, which is detailed in the report, both at Headquarters and within United Nations specialized institutions and field missions.

Our common goal continues to be the same — to further strengthen the Court so that it can fulfil its mandate effectively. There are States parties to the ICC all over the world, and they share ownership of the Rome Statute. We will continue to encourage the

widest possible participation in the Statute, support the independence of the Court and promote cooperation with it.

**Ms. Beckles** (Trinidad and Tobago): I have the honour to deliver this statement on behalf of the 14 States members of the Caribbean Community (CARICOM).

At the outset, we would like to reiterate our unequivocal commitment to upholding the purposes and principles on which the International Criminal Court (ICC) was founded. We also wish to express our gratitude to the Secretary-General for the reports contained in documents A/71/342, A/71/346 and A/71/349, which provide useful information on the Court's activities in 2015 and 2016.

CARICOM remains fully committed to supporting the Court and its primary objective of helping to put an end to impunity for the most serious crimes of concern to the international community, as well as contributing to the prevention of such crimes, as listed under article 5 of the Rome Statute of the ICC. Within our own region, the late Arthur N. R. Robinson, former Prime Minister and President of Trinidad and Tobago, has been credited as one of the forefathers of the ICC through his pioneering work leading to the Court's establishment.

Notwithstanding its many challenges, the ICC continues to be a beacon of hope to the victims of crimes within its jurisdiction who are seeking justice. They include thousands of women and children, who are often most affected by the actions of criminals who show blatant disregard for the sanctity of human life by violating international humanitarian law and international human rights. In that regard, we are particularly pleased to note that the Trust Fund for Victims provided more than 300,000 people with psychological and physical rehabilitation as well as material support. We therefore recognize the ICC's importance in promoting the rule of law, encouraging respect for human rights, and achieving sustainable peace and the further development of nations, in accordance with international law and the purposes and principles of the Charter of the United Nations.

CARICOM contends that the success of the Court is intrinsically linked to the universality of the Rome Statute. We are therefore convinced that increased cooperation would improve the Court's ability to effectively discharge the mandate entrusted to it by the States parties. In that regard, we reiterate our commitment to promoting the universality of the Statute and urge all States that have not yet done so to take the necessary steps to ratify and fully implement it with a view to promoting its universality.

We welcome the most recent ratifications of the amendments on the crime of aggression, which have brought the total to 32. CARICOM recalls the decision made in 2010 at the Kampala Review Conference of the Rome Statute under which the Court will be able to exercise jurisdiction over the crime of aggression once 30 States had ratified the amendments, subject to a decision by the Assembly of States Parties to activate it. We therefore look forward to the Assembly's decision in that regard, which will be taken in 2017.

Cooperation with the Court remains at the heart of the Rome Statute and is the duty not only of States parties but of all States Members of the United Nations, especially in cases referred to the Court by the Security Council. In the light of the concerns of some who see the ICC's criminal jurisdiction as a possible threat to national sovereignty, we would like to recall that, under the principle of complementarity enshrined in the Rome Statute, the Court's jurisdiction is invoked only when States are unable or unwilling to prosecute those deemed guilty of grave crimes of concern to the international community. No individual or State should fear the ICC, since it is a court of last resort.

Pursuant to the report of the Secretary-General on that subject, we would also like to recall that, while the Security Council's ability to refer a situation to the Court is crucial to promoting accountability, it is also essential to conduct active follow-up of referrals to ensure cooperation — that is, to obtain the arrest and surrender of individuals — so that effective justice can be delivered. We fully agree with the report's contention that perceived inaction on the part of the Council risks undermining both its own credibility and that of the Court. CARICOM remains deeply concerned about some States' failure to honour their legally binding obligations to cooperate with the Court in the execution of outstanding arrest warrants. Those who fail to cooperate with the Court's efforts to bring criminals to justice are contributing to a culture of impunity that not only undermines the rule of law but is also an affront to the victims of grave crimes.

CARICOM commends the Court's efforts to ensure that justice prevails and that criminals are not allowed to continue their activity with impunity. We

continue to be satisfied with the steadfast commitment and hard work of Ms. Fatou Bensouda, the Prosecutor, who continues to discharge her mandate in a manner consistent with the provisions of the Rome Statute. We take note of the preliminary examinations conducted in 11 countries and the newly opened investigation following the Court's judicial authorization.

*Mr. Pecsteen de Buytswerve (Belgium), Vice-President, took the Chair.*

However, CARICOM remains concerned about the Court's unprecedented workload, with four cases simultaneously in the trial stage and several others at other stages of their proceedings. To mitigate the situation, we reiterate our call for the ICC to be provided with the resources that it needs to properly discharge its mandate. CARICOM also urges States parties that have not yet done so to pay their outstanding contributions, so as to ensure that the Court can discharge its responsibilities effectively and efficiently. We also encourage States to make voluntary contributions to the Trust Fund for Victims with a view to ensuring adequate reparations. Given article 115 (b) of the Rome Statute and the Relationship Agreement between the United Nations and the ICC, CARICOM would like to recall here that expenses associated with Security Council referrals should be reimbursed with United Nations funds. To that end, we once again reiterate our call for the United Nations to honour its obligation to meet the costs associated with referrals by the Security Council to the ICC.

In closing, I wish to express the unequivocal support of Trinidad and Tobago for the ICC and for the promotion of the universality of the Rome Statute.

**Mr. Petersen** (Denmark): I have the honour to speak on behalf of the five Nordic countries: Finland, Iceland, Norway, Sweden and my own country, Denmark.

Let me start by thanking the International Criminal Court (ICC) for its annual report to the United Nations (see A/71/342). I would also like to thank Judge Fernández de Gurmendi, President of the Court, for her thorough presentation of the main issues in the report. The Nordic countries would like to express our sincere appreciation to the Court for its significant contribution to the fight against impunity worldwide.

It is evident that the caseload of the Court has continued to increase. I will now give a few statistics in that regard.

During the reporting period, the Office of the Prosecutor conducted preliminary examination activities in 11 situations in Asia, Africa, the Middle East, Europe and Latin America, and opened a new investigation into the situation in Georgia, following judicial authorization by the Court. In total, the Court is currently seized of 23 cases and 10 country situations. Those numbers and the geographical scope of cases are unprecedented in the history of the Court. That shows that the ICC is truly a global criminal court. During the reporting period, the Court also rendered its first conviction for counts of sexual violence and command responsibility, which is an important achievement in the quest to bring justice to victims of those atrocious crimes. We therefore commend the President, the Chief Prosecutor, their staff and the entire Court for the dedicated and professional manner in which they carry out their work.

Holding to account perpetrators and ensuring justice for victims of the most serious crimes of concern to the international community are principles shared by States in all parts of the world. The International Criminal Court is an essential means not only for promoting respect for international humanitarian law and human rights law, but also for advancing post-conflict peacebuilding and reconciliation with a view to achieving sustainable development and peace.

We wish to stress the importance of full cooperation by States. It is a cause for concern that the number of outstanding arrest warrants remains high. Requests for arrest and surrender issued by the Court remain outstanding against 13 individuals. States parties have a legal obligation under the Rome Statute to cooperate fully with the Court. We therefore strongly urge all States to cooperate fully and effectively with the Court, in line with the applicable Security Council resolutions.

The Court's promise of justice for the victims goes together with the reach of its jurisdiction, which depends, first and foremost, on how universally the Rome Statute has been ratified. While being fully within the provisions of the Rome Statute, recent decisions and notifications by States parties to withdraw from the Rome Statute are deeply regrettable. The Nordic countries continue to stand ready for a constructive discussion about concerns that some States parties may have within the framework and fundamental principles of the Rome Statute.

States have the primary responsibility to investigate and prosecute crimes, as the ICC is a court of last resort. However, States affected by genocide, crimes against humanity and war crimes might at times need capacity support so as to be able to initiate investigations and conduct criminal proceedings. The Nordic countries emphasize the value of States parties assisting each other in developing such capacity. We remain committed to strong international cooperation in that area – cooperation that engages international, regional and national actors in the justice sector, as well as civil society, so as to further the implementation of the principle of complementarity. We stress that States parties may also benefit from the knowledge and expertise of the Court.

One concrete example of our complementarity engagement is provided by the Justice Rapid Response facility, which is a support mechanism for providing States and organizations with rapidly deployable criminal-justice professionals trained for international investigations.

We welcome the ongoing cooperation between the United Nations and the ICC as described in the report. Cooperation between the Court and the Security Council should be further enhanced, which is particularly true in cases of non-cooperation with the ICC. Cases referred to the Court by the Security Council also need strengthened follow-up. The Syrian situation is reaching a horrible magnitude, and we deeply regret that the Council has been unable to refer it to the ICC. We strongly urge the Council to continue efforts to refer that situation to the Court. Without stronger and more committed action by the Council and States parties, the situation will not improve. All those responsible for war crimes and other serious international crimes must be held accountable.

In the meantime, the quest for universal adherence to and implementation of the Rome Statute should also be intensified. Justice must be ensured for victims of mass atrocities in Iraq. We therefore repeat our call upon Iraq to accede to the Rome Statute. We also stress the need for all States parties, as well as non-States parties that have not yet done so to ratify and fully observe the Agreement on the Privileges and Immunities of the ICC as a matter of priority.

The full realization of the rights of victims is an important aspect of the continuing success and relevance of the Court. We commend the important work of the ICC Trust Fund for Victims, which has supported more than 300,000 victims in northern Uganda and the Democratic Republic of the Congo. We encourage States and other actors to contribute to the Trust Fund. The Nordic countries also welcome the ambitions of the Office of the Prosecutor to further enhance the efficiency of the Court. We especially welcome the Prosecutor's policies aimed at addressing crimes against those most vulnerable in important areas such as sexual and gender-based crimes, and at prosecuting crimes against children.

During the reporting period, the Court also moved into its new, permanent premises in The Hague, funded by the States parties. The completion of the new, purpose-built building of the Court is a major milestone for the ICC as a permanent international institution. We hope that the Court will make the most effective use of the new premises so as to achieve justice for victims and contribute to the prevention of core international crimes. In order for the Court to do so and be able to carry out its tasks in the most efficient way, it also needs to be properly funded. The Court's budget will be dealt with in the Assembly of States Parties later this month, but we wish to underline the worldwide activities of the Court, as reflected in the report. It is our common responsibility to ensure that the Court has sufficient resources to carry out its important mandate in a time of strongly increasing demand.

Let me conclude by renewing our pledge that the Nordic countries will remain staunch supporters of the ICC. We are committed to continuing to work for the Court's effectiveness, independence and integrity.

**Ms. Bird** (Australia): The world needs the International Criminal Court. The Court embodies States parties' commitment to hold to account those most responsible for the crimes that shock us most, namely, genocide, crimes against humanity and war crimes. It embodies a commitment that when States are unwilling or unable to investigate and prosecute those crimes, the international community will step in and provide justice for the victims. It entails a commitment to contribute to the prevention of those crimes.

The ICC is only as strong as the commitment of the States on whose cooperation and support the Court relies. We underline our expectation that States will fulfil their obligations to cooperate with the Court, whether those obligations derive from being a party to the Rome Statute or from resolutions of the

Security Council. Support from the United Nations is also crucial. We welcome Secretary-General Ban Ki-moon's ongoing support for the Court and express our expectation that the incoming Secretary-General, Mr. Guterres, will follow in his footsteps.

The support of the Security Council is particularly important, especially in the case of Council referrals. It is essential that such referrals be accompanied by the Council's clear demonstration of ongoing political support in order to maximize States' cooperation with the Court and minimize any possible perception that the ICC is subject to the Council's shifting political dynamics. That accords with Australia's vision of a Security Council that demonstrates real leadership in ending impunity for serious international crimes.

The ICC's mandate is inherently political. Its job is to hold to account those most responsible, who all too often are among the most powerful. We accept the reality that the ICC's mandate is likely to mean that it will always have more than its fair share of critics. Nonetheless, we do not shy away from acknowledging the fact that as this debate takes place today, the Court faces more challenges than ever before. Nor do we wish to ignore the need to work with those States that have raised concerns. While we recognize that membership in an international treaty is a sovereign decision, we take the opportunity to encourage those States parties that have indicated that they intend to withdraw from the Rome Statute to reconsider their decision. As we have said before and as we have demonstrated with our actions, Australia is committed to working together with all States parties to ensure that the Court is the strongest possible institution that we can make it, so that we can ensure that the ICC's vital mandate can be fulfilled.

Australia is convinced that while timing can be important, holding to account those most responsible for serious international crimes is crucial to the establishment of inclusive and lasting peace. History has demonstrated time and again just how difficult it is to prevent cycles of violence in the absence of justice. We must heed that lesson. The ICC, as a court of last resort, has a critical role to play in that regard.

Australia once again calls on States that have not done so to ratify the Rome Statute in order to send a clear and universal message to would-be perpetrators that Rome Statute crimes will not be tolerated. For our part, Australia remains deeply committed to supporting the Court and doing what we can to advance our common cause of ending impunity for those who commit the most serious international crimes that shock the conscience of humankind.

**Mr. Lauber** (Switzerland) (*spoke in French*): First of all, I would like to thank the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for presenting the Court's report (see A/71/342) this morning and commend her and her team for the excellent work that they have been doing in the Court, which is at the heart of any progress that we have seen.

The ICC was created for the victims of the most serious crimes of concern to the international community as a whole. It works neither for the benefit of certain States or regions nor to their detriment. The ICC is the centrepiece of the fight against impunity. While States continue to bear the primary responsibility for prosecuting criminals, the Court intervenes when the national authorities are unable or unwilling to prosecute those responsible for the most serious crimes of concern to the international community. The Court contributes to ensuring justice to victims when no other tribunal will do so.

It is true that the Rome Statute system is a voluntary system. It is the sovereign right of every State to join or not join in that system. That decision, like any other, bears consequences. Here, the consequences are borne not by the political leaders of the world but by those affected by conflicts, war crimes, crimes against humanity and genocide. The decisions of South Africa, Burundi and the Gambia to withdraw from the Rome Statute therefore send a troubling signal. If anything, the multiplication of horrendous crimes around the globe should prompt us all to engage more thoroughly in the fight against impunity and certainly not to reduce that commitment.

Much of the criticism against the ICC does not originate from the purported flaws of the institution. In fact, quite the contrary is true. The Court is rejected by some because it does, in fact, execute its mandate successfully. In the past year, success has come in the form of key judgments that have provided justice for victims, ensured the accountability of perpetrators and affirmed the rule of law. In *The Prosecutor v. Jean-Pierre Bemba Gombo* case, for instance, the Court highlighted that superiors are responsible for the actions of their subordinates. In *The Prosecutor v. Ahmad Al*

*Faqi Al Mahdi*, it underlined that the destruction of cultural heritage will be punished. Just a few days ago, the Court gave the green light for symbolic collective reparations for the victims relating to the case of *The Prosecutor v. Thomas Lubanga Dyilo*.

The ICC can sanction and prevent not only crimes, but also wars, which is one of the main goals of the United Nations. The amendment to the Rome Statute on the crime of aggression has now been ratified by more than 30 States parties. The Court's jurisdiction over such crimes can be activated by the Assembly of States Parties starting next year. Having ratified the amendment last year, Switzerland calls on all other States parties to do the same.

Almost two thirds of all of the States represented in the General Assembly have adhered to the Rome Statute, and we specifically call on them to uphold the key principles that serve as a precondition to the work of the ICC. First, States parties need to strictly respect the independence of the ICC. Politics have no place in a court, either at the national or at the international level. Secondly, States parties need to continue to insist that even the highest officials of a State can be subject to prosecution before the ICC. Those who plan and order the commission of serious crimes bear the greatest responsibility for them. Finally, States parties need to cooperate fully with the ICC, especially in the execution of requests by the Prosecutor and arrest warrants. States are the limbs of the the international criminal justice system.

Switzerland deplores the lack of action on the part of the Security Council in relation to the complete impunity prevailing in Syria. In 2014, draft resolution S/2014/348, aimed at referring that situation to the ICC, was not adopted despite the approval of 13 Council members and the sponsorship of 65 States. Today, we continue to witness the repeated and systematic commission of serious crimes by all parties to the conflict, including the bombing of hospitals, humanitarian convoys and besieged cities in which civilians live under horrendous circumstances. My delegation therefore renews its call on the Security Council to refer the situation in Syria to the ICC. The right to veto should never be used in situations involving international crimes, whether in Syria or elsewhere.

We welcome that the United Nations and the ICC have established a close and mutually beneficial working relationship on many other levels. That relationship encompasses numerous United Nations entities, including the Department of Political Affairs, the Department of Peacekeeping Operations and the United Nations Development Programme, as well as representatives on the ground in Mali and in the Central African Republic. We also support cooperation between the ICC and United Nations commissions of inquiry, groups and panels, as well as joint efforts aimed at strengthening capacities in national jurisdictions, so that they can deal with the most serious crimes of international concern. If we want to end impunity, we must make it an imperative goal to turn complementarity into a reality.

In conclusion, my delegation recalls that the Secretary-General, Mr. Ban Ki-moon, proclaimed that the ICC heralded an era of accountability based on the experience that there can be no sustainable peace without justice. He has devoted himself to making accountability a reality, and we thank him for that. We encourage the Secretary-General-designate to pursue that same commitment, because much remains to be done, and we all have a role to play.

**Mr. Mikanagi** (Japan): At the outset, I would like to thank President Silvia Fernández de Gurmendi of the International Criminal Court (ICC) for her dedication and leadership, as well as for her presentation of the comprehensive report on the work of the Court (see A/71/342).

Japan's core policy towards the ICC is to enable it to function effectively and sustainably with the support of the international community. Japan is proud of being the largest financial contributor to the Court. We are also dedicated to supporting the ICC through capable human resources, including judges, and became the first country to participate in the ICC Junior Professional Officers programme this year. We hope that the programme will enable many junior officers to gain experience and knowledge at the ICC, while also contributing to its work.

Japan believes that the ICC has made steady progress in the judicial field. The Court has been exercising its jurisdiction with regard to 10 situations, and 10 preliminary examinations are ongoing. Nevertheless, we are cognizant of the fact that financial and human resources are limited, and we believe that they should be used efficiently. With that in mind, the Japanese Ambassador to the Netherlands, Hiroshi Inomata, has been working with Chile as co-chair of the

Study Group on Governance to enhance the efficiency of the Court. We believe that such exercises carried out by States parties can help mitigate the Court's unprecedented workload.

It is vital for the ICC to have the cooperation of the States parties. That is clearly one of the biggest challenges that the Court is currently facing. This year, Japan, together with Australia, the Czech Republic, Peru and Senegal and in close consultation with interested parties, prepared a toolkit to assist States parties by providing possible actions that can be taken when they foresee possible incidents of non-cooperation. We hope that the toolkit will be useful to everyone and that it will prevent future non-cooperation issues. Cooperation is also crucial when the Security Council refers situations to the Court. The ICC can function more effectively when the Security Council follows up on such situations in close cooperation with the Court and the States concerned. While there is no clear-cut answer to that issue, my delegation is happy to contribute to further dialogue on the matter.

Japan strongly believes that more countries should join the ICC to ensure that it effectively promotes the rule of law throughout the world. In the long-run, the ICC should aim at becoming a truly universal criminal court, so that it can gain strong support for its work. In that regard, we are concerned about recent decisions that were taken by some African States to withdraw from the ICC. In order to gain the support and cooperation of a greater number of States in carrying out its activities, the ICC and its States parties should listen to the concerns expressed by the wider audience and make efforts to enhance its universality.

In closing, I wish to express Japan's sincere appreciation for the work that the ICC has accomplished to date. We hope that it will continue to work diligently in the fight against impunity while consolidating its credibility, both inside and outside the Rome Statute system. Japan pledges to strengthen its contributions to the ICC and to continue to enhance respect for the rule of law.

**Ms. Owen** (United States of America): I thank President Silvia Fernández de Gurmendi of the International Criminal Court (ICC) for her presentation of the Court's report on its activities (see A/70/342) and for her continued leadership as President of the Court.

The United States has long viewed the end of impunity for mass atrocities as both a moral imperative and a stabilizing force in international affairs. To that end, we continue to work with bilateral partners, regional organizations and the United Nations on a case-by-case basis and in a manner consistent with United States policy and law, and with the International Criminal Court, to identify practical ways to advance accountability for the worst crimes known to humanity. As is so often the case, the past year has seen both remarkable progress and deeply frustrating setbacks in that regard, reinforcing how important it is that the international community strive to find ways to intensify its collaboration in support of justice and reflect and take stock of its common efforts.

As reflected in the Court's report, there have been a number of successes at the Court with regard to accountability, demonstrating the many ways in which it and other courts like it can have an impact. The United States welcomed the conviction in September of Ahmad Al-Faqi Al-Mahdi for destroying mausoleums and shrines in Timbuktu — a verdict that emphasized the seriousness with which the international community views the purposeful destruction of cultural property. We welcome the upcoming opening of the trial of Dominic Ongwen, who will be the first commander of the Lord's Resistance Army to face charges for his role in that vicious armed group's crimes against civilians. And most recently, Jean-Pierre Bemba Gombo's conviction in March for war crimes was followed just two weeks ago by a verdict finding him and four associates guilty of offenses against the administration of justice, thereby showing the importance of ensuring the integrity of accountability proceedings.

Given recent developments, it seems appropriate to note that all of those landmark actions occurred in situations in which the ICC acted at the request of a national Government that was unable itself to investigate, bring charges and help vindicate the rights of victims. We welcome the report of continued work by peacekeeping missions authorized by the Security Council to support appropriate national efforts to pursue justice and accountability, as well as the continued work by UN-Women, the Special Representative of the Secretary-General on Sexual Violence in Conflict and the Office of the Prosecutor of the ICC to ensure that sexual and gender-based violence receives the attention and the focused effort towards accountability that it too rarely receives.

We have seen a number of countries take the positive step of leading the pursuit of justice within

their domestic systems, with support from the international community, including the completion in Senegal of proceedings against Hissène Habré for crimes committed during his tenure as President of Chad, and the establishment by the Government of Kosovo of the Kosovo Specialist Chambers in that country's judiciary, which will examine allegations of serious crimes committed from 1998 to 2000.

Similarly, we support the prompt establishment of the Hybrid Court for South Sudan, which we hope can be an effective measure for ending the cycle of impunity in that country and provide a measure of justice to the victims of the brutal conflict there. Finally, the Central African Republic has welcomed the ICC as an essential ally in the fight against impunity, working alongside Central African Republic's domestic efforts to establish a special criminal court focused on atrocity crimes — a process that we urge them to complete as quickly as possible, given the importance of providing accountability and bolstering capacity at the national level, even where the ICC is already involved.

As we reflect on recent events, we should think about the ways in which such efforts, both within and without the ICC, have meaningfully and positively contributed to breaking cycles of conflict and impunity. Yet, while many of those developments are encouraging, we remain alarmed by the continuing suffering in far too many situations elsewhere in the world, where the victims of mass atrocities still have not seen a sufficient response to calls for justice. We must remain vigilant and steady in our march toward a world increasingly intolerant of impunity.

Clearly, there remains much to be done in our work together to prevent mass atrocities and bring to justice those who commit crimes against humanity, war crimes and genocide. The ICC cannot grapple with every mass atrocity situation in the world, and even where it is involved, the Court will be able to address at most only a small handful of cases. Given that reality and the limited resources and increasing demands that it faces, it will be important for the ICC to ensure that its choices are guided by justice, rigour, fairness and care. In that connection, the international community should strive to ensure that the Court is able to remain focused on its core mandate: to address war crimes, crimes against humanity and genocide.

We note in that regard that the United States continues to have serious concerns about the Rome Statute amendments on the crime of aggression adopted in 2010 at Kampala. We believe that it is in the interest of both peace and justice to ensure that any decision to activate the Court's jurisdiction over that crime be preceded by concrete steps to provide greater clarity regarding certain critical issues, including regarding what conduct and which States would be covered by the amendments. We continue to believe that a decision to activate the amendments without clarification of those issues will further chill the willingness of States to take action aimed at stopping the very atrocities that prompted the Court's creation, and will compound the challenges already facing the Court by enmeshing it in disputes of a far more political character than it currently faces. On that and other issues of justice and accountability, we look forward to continuing to pursue partnership and seek common ground with Governments and civil society, wherever possible.

**Mr. Van Bohemen** (New Zealand): I begin by thanking my friend and colleague, Judge Silvia Fernández of the International Criminal Court (ICC), for presenting the report on the work of the Court (see A/71/342) and for her ongoing service to the Court. We welcome the opportunity for continued dialogue to discuss the Court's contribution to international criminal justice and its relationship with the United Nations. New Zealand has been a long-standing supporter of efforts to break the cycle of impunity for the most serious international crimes, regardless of where they occur. For that reason, New Zealand is and remains a strong supporter of the Court and of the universality of the Rome Statute.

New Zealand has also been ready to express its concerns when we have felt that the Court could perform better in managing some of the issues facing it. As we reflect on the past year, we note that there have been some positive milestones for the Court, to which I will return later. But first, we should not shy away in our annual debate this year from the very significant recent developments that confront us.

Members will be aware that New Zealand has consistently underlined that the Court and the States parties must be more open to constructive dialogue and engagement among the Court, Member States, the United Nations and regional organizations, including the African Union. That is why we welcomed the recent efforts undertaken by His Excellency Mr. Sidiki Kaba, President of the Assembly of States Parties to the Rome

Statute of the ICC, and Prosecutor Fatou Bensouda of the Court in that regard.

We have long encouraged better engagement with the African Union and African States on issues that we understand are of real concern to them and which,

in our view, merit careful consideration. African States have played an essential role in the Court since its inception and have been, through their referrals, actively engaged with the Court. So that is the context in which we must record our disappointment that Burundi, South Africa and the Gambia have taken the decision to withdraw from the Rome Statute. In our view, those decisions are regrettable. We hope that in the time that remains before those decisions take effect, there is room for meaningful dialogue on a potential resolution of the issue and for working out a pathway back to full membership in the Court. That will necessarily involve a willingness to explore the issues through genuine engagement. Those issues are inherently difficult and require a commitment by all sides to listen carefully to each others' perspectives, which will be an important prerequisite to any progress.

At the same time we must not panic. It was always likely that there would be teething problems with the Court, the need for which had been debated for over 50 years, and especially at a time when the world is experiencing some of the most difficult political tensions since the end of the Cold War. We need to take the challenges seriously and recognize the political realities in which the Court operates.

The Court was the creation of a diplomatic process, and we will need a diplomatic process to address the challenges that it is now facing. The task is to do that in a way that preserves the integrity of and support for the Court, which will be essential for its growth and ongoing viability in the international criminal-justice framework. It also requires from the States parties more meaningful engagement than we have seen to date to acknowledge and address the underlying concerns. We particularly urge other States parties to continue the discussions at and around the Assembly of States Parties.

New Zealand remains committed to working with all States parties to create the conditions necessary for such a dialogue to take place — a dialogue that is open, honest, respectful and focused on our common goal of ending impunity. We are conscious that achieving that goal will include cooperation and mechanisms at the national, regional and international levels.

We also want, of course, to acknowledge the more positive developments that have occurred over the past year. We welcome the move to the new purpose-built premises, the thirtieth ratification of the Kampala amendments on the crime of aggression and the first conviction for the war crime of the destruction of cultural property in Mali.

But as we have explained earlier, we cannot ignore the challenges ahead, nor can we expect them to be resolved quickly. It remains imperative to continue to strengthen the practical working relationships between the Court and the United Nations at all levels. In particular, we encourage greater cooperation, coordination and information-sharing with United Nations sanctions committees. Targeted sanctions are an important tool for addressing threats to international peace and security, including the commission of serious international crimes.

As a member of the Security Council, New Zealand emphasizes that the relationship between the Court and the Security Council remains as important as ever. As previously expressed by my delegation, when the Council refers a situation to the Court, it should do so with a clear commitment to follow up. We believe that it is not just a question of providing the Court with the necessary support and resources for the referrals that the Council makes, including in relation to the Court's findings of non-cooperation, but of upholding the binding nature of Chapter VII resolutions. The failure to take action calls into question the authority of the Council and its resolutions. Equally, as we have previously said, the Council must be scrupulously careful to avoid using referrals as a political tool in the midst of a conflict. That only politicizes the Court and can prolong both conflicts and impunity.

Our experience on the Council over the past 22 months has only reinforced our view that a robust international accountability framework is essential. The existence of the Court sends a clear message that the crimes specified in the Rome Statute will not be tolerated and will not go unpunished. We believe that that objective is common to all of us. For our part, New Zealand remains committed to working with others to strengthen the Court's effectiveness in fulfilling its mandate.

**Mr. Racovita** (Romania): The Romanian delegation would like to thank the International Criminal Court (ICC) for the twelfth annual report on its activities (see A/71/342), submitted to the United Nations.

at the outset, let me reiterate Romania's full commitment toand support for the Court as the fundamental pillar of international criminal justice. The International Criminal Court plays a vital part in preventing the most serious crimes of global concern, prosecuting the alleged perpetrators of those crimes and securing the rule of law at the international level.

As highlighted in the report, the Court faced a heavy workload over the past year, illustrated, inter alia, by the need to handle four cases simultaneously at trial and several other cases at various stages of proceedings, by the opening of a new investigation on the situation in Georgia and by the handing down of sentences this year for crimes within its jurisdiction. We welcome the move to the new permanent premises, which marks an important milestone for the International Criminal Court as a permanent international institution.

With regard to universality, we commend El Salvador for depositing its instrument of accession to the Rome Statute, thereby raising the number of States parties to 124. We continue to encourage all States to become parties to the Rome Statute. The Romanian delegation equally welcomes the fulfilment of one of the conditions necessary for the activation of the Court's jurisdiction with regard to the crime of aggression, as more than 30 States have already ratified the relevant Kampala amendment.

We express our deep concern with respect to the announced decisions or intentions to withdraw from the Rome Statute expressed by several States parties. While fully acknowledging that withdrawal from an international treaty is a sovereign right, we encourage those States to reconsider their position, to continue to be part of the Rome Statute system and to work together towards reaching its goal of fighting impunity, which is vital to making reconciliation and lasting peace possible. Giving up the Statute of Rome system can only give the wrong message to civil society, and to the victims in particular, that accountability counts less. That certainly is the wrong message, a message that we wanted to correct when we all were engaged in negotiating the Rome Statute. The very rationale of this ambitious project is just as present now, if not more so, as it was then. We must equally take into account the fact that a significant number of situations under investigation at the ICC were submitted by national authorities themselves, thereby illustrating confidence in the institution.

Along with the challenge affecting universality, the International Criminal Court still faces the challenge of cooperation. Non-cooperation as regards the execution of arrest warrants undermines the capacity of the Court to deliver justice and affects the credibility of the justice act. Each State should be aware of the significant role played in the materialization of the international judicial act, in accordance with the legal obligations stemming from the Rome Statute and/or Security Council resolutions.

Romania remains an active supporter of the International Criminal Court and works constantly to promote its activity. In March 2016, the Court organized, in Bucharest, with the support of the Romanian Ministry of Foreign Affairs, a high-level regional seminar on strengthening cooperation with the ICC. The event was organized with the financial support of the European Commission. The aim of the high-level seminar was to foster cooperation between the ICC and countries belonging to the Eastern European Group of States. It covered a number of important issues, including witness protection, State cooperation during ICC investigations, national capacity-building, various types of voluntary agreements and implementing legislation, as well as the benefits of joining the Rome Statute system. The event brought together Government representatives from around 20 countries belonging to the Eastern European Group of States, including the Ministers of Justice from Romania and Georgia, along with officials from regional organizations and from the ICC.

At the end of the meeting in Bucharest, a set of recommendations was adopted in order to promote cooperation with the ICC, highlighting the most relevant issues related to effective cooperation between the ICC and Central and Eastern European States and reflecting the continued commitment within the region to promoting the work of the Court and its values.

In conclusion, I would like to underline again the need for strong, wide and consolidated support from States and from the international community for the ICC. When we stand together, that unique and essential institution can achieve the goals of peace and justice.

The Romanian delegation fully aligns itself with the statement delivered on behalf of the European Union and its member States.

**Mr. Cardi** (Italy): Let me thank the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for her thoughtful presentation of this year's report of the Court (see A/71/342) to the General Assembly, which shows the increase in the volume of work facing the Court and the increased effectiveness of its proceedings.

Italy aligns itself with the statement delivered by the observer of the European Union. I would like to emphasize only a few points in my national capacity.

First of all, we share the positions of concern and regret expressed by the Secretary-General and by the President of the Assembly of States Parties to the Rome Statute of the International Criminal Court, Minister Sidiki Kaba of Senegal, on the recent decisions or announcements of intention to withdraw from the Statute. The Rome Statute represents a cornerstone in the fight against impunity and the establishment of an age of accountability. As the Government of Botswana, inter alia, stated, as the only permanent international criminal tribunal, the ICC is an important and unique institution in the international criminal justice system. It took over 50 years, as we know, for the international community to come together in Rome in 1998 and finalize that ambitious treaty, inspired by the fundamental principles of international justice, which must be preserved.

Secondly, in my role as Vice-President of the Assembly of States Parties to the ICC Statute, I am also proud to work side by side with the President of the Assembly of States Parties in his effort to pursue dialogue while preserving the important principles embodied in the Rome Statute. Any issue pertaining to the functioning of the Rome Statute system can be addressed in the Assembly of States Parties as the proper and appropriate platform for States parties to address any concerns that they may have regarding the implementation of the Statute itself. We have been, we are and we remain open to dialogue.

Of course, our focus must remain on the victims. For that reason, it is very important that the international community increase its efforts to uphold the concept of complementarity. The International Criminal Court is a court of last resort. What we would like to see is a stronger capacity at the national level to prosecute crimes and defend the victims. That can be done by enhancing the role of various United Nations bodies and willing Member States in providing technical assistance to strengthen national judicial systems, especially in countries transitioning from war or conflict.

Together, we must make further progress in the fight against impunity, for example, as the Court has shown already with regard to crimes committed by the Islamic State in Iraq and the Sham or Daesh, including by supporting efforts to prosecute crimes against women and children, atrocities against members of protected groups and minorities, and crimes involving the destruction of the cultural heritage, and, hopefully, by promoting the opening of new avenues for the prosecution of traffickers of human beings.

Italy therefore joins other States in calling on all States parties to remain committed to the Rome Statute and on all States to contribute to the prevention and punishment of crimes against humanity.

**Mr. Barros Melet** (Chile) (*spoke in Spanish*): We would first like to thank the President of the International Criminal Court, Judge Silvia Alejandra Fernández de Gurmendi, for presenting the comprehensive report on the Court's activities (see A/71/342) covering the period from 1 August 2015 to 31 July 2016, which shows, among other things, the significant increase in the Court's workload. We acknowledge the First Vice-President, Judge Joyce Aluoch, and the Second Vice-President, Judge Kuniko Ozaki, as well as the Prosecutor, Ms. Fatou Bensouda.

The International Criminal Court has become the most advanced example of the development of institutions devoted to international criminal justice. From the viewpoint of the protection of human rights, the creation of the Criminal Court is a decided advance in efforts to combat impunity and a clear signal that its States parties have a commitment to the international community, which they must honour in order to meet its objectives.

On 23 September, Chile deposited its instrument of ratification of the Kampala amendments, becoming the thirty-second State to do so. Nevertheless, much remains to be done, which is why my country is working to ensure that, after 1 January 2017, the necessary decisions are taken to activate the jurisdiction of the Court over crimes of aggression. In addition, at home, the Government has supported the relevant legal changes so as to include the crime

of aggression in Chilean criminal law and extend the war crimes mentioned in the Kampala amendments to non-international conflicts.

We reiterate the importance of ensuring that the Court has the necessary material and human means and resources to fulfil its mandate. In that connection, Chile believes that, when the Security Council refers a situation to the International Criminal Court, the General Assembly must make the necessary arrangements to give the Court the financial resources needed to deal with such referrals.

We are also convinced of the need for the Security Council to monitor the cases that it refers to the Court and, in that connection, to pay special attention to situations created by the lack of cooperation by States or the difficulties that may arise as a result. The International Criminal Court will not be able to advance its crucial work to combat impunity without proper cooperation, which is needed so that the perpetrators of crimes within the Court's jurisdiction can be held accountable for their actions. We appeal to all States to cooperate fully with the Court.

We shall not let up in our efforts to achieve the universality and full application of the Rome Statute. We appeal to the States that are not yet parties to the Statute to ratify or accede to it. We welcome El Salvador as a new State party, which brings the number of States parties to this international treaty to 124. We also appeal for greater cooperation between the Court and States, and in particular those that may be experiencing difficulties in that regard, so that they can face, in a timely manner and in accordance with the norms of the Rome Statute, any difficulty that they may encounter in meeting the obligations established therein. We also emphasize the importance of States parties ratifying the Kampala amendments concerning the crime of aggression and article 8 of the Rome Statute.

With regard to the Trust Fund for Victims, we acknowledge the important work that has allowed for ongoing assistance to over 300,000 victims in the reporting period, through the provision of physical and psychological rehabilitation services and material support for the survivors of crimes within the Court's jurisdiction.

I reiterate my country's support for the International Criminal Court and our desire to ensure that it has the necessary means to achieve its objectives and that all the members of the international community recognize it as a solid and legitimate institution in combating impunity.

**Mr. Grant** (Canada) (*spoke in French*): At the outset, I would like to reiterate Canada's continuing support for the International Criminal Court and the pivotal role that it plays in ensuring accountability for those responsible for the commission of the most serious crimes of international concern.

We must not forget the thousands of children, women and men who have been victims of unimaginable atrocities. As members of the international community, we have a collective duty to those victims to support efforts to ensure that the perpetrators of those crimes are held to account. It is the duty of every State to prosecute within its jurisdiction those responsible for serious international crimes. If States are unwilling or unable to do so, international mechanisms may fill the gaps and serve as courts of last resort.

As such a court of last resort, the International Criminal Court seeks to complement — not replace — national courts, but, in turn, it challenges States to engage in effective and meaningful investigations and prosecutions in providing justice to victims. A majority of Member States are already States parties to the Rome Statute of the International Criminal Court. However, we remain some distance from achieving the full universalization of the Rome Statute. Canada calls upon those States that have not yet done so to consider acceding to the Rome Statute.

It is well known that the Court cannot effectively accomplish its mandate without the necessary cooperation from States parties and others. Over the past year we have witnessed both accomplishments and challenges in the sphere of cooperation. The recent historic guilty plea and conviction of Mr. Al-Mahdi for war crimes related to the destruction of UNESCO-protected shrines in Timbuktu would not have been possible without the cooperation of the Niger and Mali. We welcome their cooperation as a concrete example of the commitment of those two States to justice.

(*spoke in English*)

We remain troubled, however, by instances of non-cooperation, particularly by States parties to the Rome Statute. The fact that arrest warrants issued years ago — including those issued pursuant to referral to the Court by the Security Council — remain unexecuted should be disturbing to all of us as members of the

international community. We encourage all States to abide by their international commitments.

Canada is troubled by the recent decisions of Burundi and South Africa to withdraw from the International Criminal Court and by the announcement by the Gambia of its intention to withdraw. We urge those three countries to reconsider their actions. African States played an important role in both the establishment and the development of the Court. Today their steadfast support is more important than ever in the fight against impunity.

Canada is of the view that the Assembly of States Parties to the Rome Statute is the most appropriate venue for States parties to raise any concerns they have regarding the implementation of the Statute. It is our hope that States parties will use the upcoming session of the Assembly in The Hague as an opportunity for constructive discussion in that regard.

As Secretary-General Kofi Annan said in Rome in 1998, the establishment of the Court is a gift of hope to future generations and a giant step forward in the march towards universal human rights and the rule of law. Building on the legacy of Nuremburg and following the lead of the ad hoc tribunals for Rwanda and the former Yugoslavia, a permanent international criminal court took concrete form with the Rome Conference. The International Criminal Court is the culmination of the international community's dedication to fighting impunity and giving a voice to the victims of atrocity crimes.

The Rome Statute embodies the lessons we have painfully learned from history: that individuals must be held to account to deter future crimes, that no one is above the law, that it is in the interests of all to ensure that those responsible for the gravest crimes are punished, and that fair and legitimate criminal accountability processes can help to lay the groundwork for lasting peace. As States parties, we have committed ourselves to those ideals.

Looking forward, Canada expects that the upcoming fifteenth session of the Assembly of States Parties will be fruitful and will allow us to move forward with strengthening the Court's role. We expect there to be discussions on the administrative issues of budget and governance. In that respect, we underline the important role of the Assembly of States Parties in providing oversight and guidance on these matters as prescribed by the Rome Statute, without, however, unnecessary politicization or micromanagement. The Court and the Assembly must continue to constructively work together to achieve our common goal of establishing, maintaining and strengthening the framework of a permanent, independent judicial institution that has the respect and confidence of the international community.

**Mr. Imnadze** (Georgia): Georgia aligns itself with the statement made by the observer of the European Union. In my national capacity, I would like to make the following statement.

At the outset, let me thank the President of the International Criminal Court (ICC), Ms. Silvia Fernández de Gurmendi, for the report on the activities of the Court (see A/71/342) and her remarks on the future of international criminal justice. We also thank the President of the Assembly of States Parties to the Rome Statute, Mr. Sidiki Kaba, for his role and leadership in this critical period.

The report before us covers several important milestones, including the groundbreaking case in prosecuting crimes of sexual violence in conflict through the international justice system. We welcome the decision of El Salvador to accede to the Rome Statute, thereby becoming the one hundred and twenty-fourth State party. At the end of the reporting period, the amendment to article 8 and the amendments on the crime of aggression had both been ratified or accepted by 30 States. Georgia has also ratified both amendments and looks forward to the decision of the Assembly of States Parties on the issue of their activation.

Georgia fully subscribes to the notion that without the rule of law, impunity reigns and neither justice nor peace can be achieved. The prevention of the gravest crimes, which, as the preamble to the Rome Statute states, threaten the peace, security and well-being of the world, is vital to upholding the rule of law at the international level, based on the principles of international law and the common values of humankind that the Court and the United Nations share.

Regrettably, our generation continues to witness heinous crimes of unspeakable scale and gravity. The establishment of the International Criminal Court set a new justice paradigm. In that sense, the value of the Court's work for humankind is high in terms not only of the punishment of perpetrators of genocide, war crimes and crimes against humanity, but also of the prevention of the future occurrence of such acts. We believe that accountability is important not simply for

the sake of the past, but in particular to build a future free of violence by avoiding the recurrence of conflicts and the repetition of violence, as well as by ensuring justice for the victims of mass atrocity crimes.

In that context, we regret the recent decisions of some States to leave the jurisdiction of the Court. We would like to encourage the States not yet parties to consider joining the Rome Statute to strengthen the effectiveness and credibility of the Court, as well as to provide further support for international criminal justice.

Georgia reaffirms its commitment to the work undertaken by the Court in accordance with its mandate. Effective and comprehensive cooperation and assistance by States are indispensable for the Court to carry out its activities successfully, more so given the Court's complementary role to national criminal jurisdictions.

Georgia has been cooperating with the Court ever since the ICC Prosecutor announced the start of the preliminary examination of the 2008 war in Georgia, on 14 August 2008. As an enabling factor for the full-fledged cooperation with the ICC, Georgia has put in place adequate implementing legislation of the Rome Statute at the national level. I would like to highlight some of the key aspects of the ongoing cooperation with the ICC.

My country has been a victim of international crimes since the 1990s — and notably in August 2008, when thousands of civilians were targeted in another wave of ethnic cleansing and other heinous acts. At the national level, Georgia has carried out investigations on an unprecedented scale. In particular, the Georgian investigation team interrogated over 7,000 witnesses, obtained over 200 forensic expert opinions and carried out crime-scene inspections in over 30 inhabited areas. Where the evidence was inaccessible owing to the Russian occupation of areas of Georgian territory — which were fenced off with artificial barriers, including razor wire — the crime scenes were examined through satellite imagery.

However, despite our continuous efforts, our ability to carry out additional necessary investigative measures in the Abkhazia and Tskhinvali regions at this stage is hampered by the illegal foreign occupation. In such circumstances, the request of Prosecutor Bensouda and the subsequent decision of the Pre-Trial Chamber dated 27 January to authorize proprio motu investigation into all crimes under the Rome Statute committed during the 2008 international armed conflict between the Russian Federation and Georgia have been recognized as an important step in acknowledging the ordeal suffered by the victims, as well as in combating impunity for the crimes committed between 1 July and 10 October 2008. Georgia further noted the Pre-Trial Chamber's decision to be legally sound and in line with international law.

We hope that, as Prosecutor Bensouda emphasized in February 2016, the investigation "will lead to establishing the truth and bringing justice to the victims ... who suffered so terribly during the conflict."

According to the Chamber,

> "an international armed conflict existed between Georgia and the Russian Federation between 1 July and 10 October 2008. The existence of such international armed conflict is rather uncontroversial as concerns the period of armed hostilities between Georgian and Russian armed forces between 8 and 12 August 2008 and the period of Russian occupation of parts of Georgian territory, in particular the 'buffer zone', until at least 10 October 2008. In addition, the Chamber considers, at this stage, that there is sufficient indication that the Russian Federation exercised overall control over the South Ossetian forces, meaning that also the period before the direct intervention of Russian forces may be seen as an international armed conflict".

The Chamber further notes that the consistent pattern of deliberate killing, beating and threatening civilians, detention, looting properties and systematic destruction of Georgian houses and other acts were committed "with a view to forcibly expelling ethnic Georgians from the territory of South Ossetia in furtherance of the overall objective to change the ethnic composition of the territory" and severing any remaining links with other parts of Georgia.

The Chamber also noted, based on the available information, that during the 2008 armed conflictthe crimes committed against ethnic Georgians

> "resulted in 51-113 killings, the destruction of over 5,000 dwellings and the forced displacement of 13,400-18,500 persons constituting, in the estimation of the Prosecutor, a 75 per cent decrease in the ethnically Georgian population in South Ossetia."

At this stage of cooperation with the Court, a special agreement on cooperation has been concluded between the Government of Georgia and the Office of the Prosecutor. The document establishes mechanisms to operationalize and enhance cooperation between the parties and to facilitate the expeditious conduct by the Office of the Prosecutor of the ICC of the investigations and prosecutions within the territory of Georgia. We are ready to continue cooperation with the Court in the framework of the above mentioned agreement.

**Mr. Węckowicz** (Poland): Poland aligns itself with the statement made by the observer of European Union. We would like to make the following remarks in our national capacity.

First, we would like to thank the International Criminal Court (ICC) for the twelfth annual report on its activities (see A/71/342). We thank President Fernández de Gurmendi for giving us a comprehensive briefing of the main issues concerning the ICC over the past year.

As highlighted in the report, the Court faced an unprecedented workload, with four trials taking place simultaneously. At the same time, the Office of the Prosecutor has been conducting investigations into a significant number of situations. Such a caseload is a clear indication of the importance of the Court, as well as of the worldwide demand for justice.

Poland recognizes the significant judicial developments during the reporting period, including the first case involving both command responsibility and the first conviction for sexual violence, and the case involving the first conviction for destroying religious monuments. Those rulings send a strong signal that such crimes will be prosecuted. Unfortunately, over the same period, new crimes of the same or similar nature and many other grave crimes are reported to have been committed.

There is a widespread expectation that such atrocious crimes cannot go unpunished. The ICC has a crucial role in upholding that expectation and in fulfilling the hopes of victims all over the world. However, we must remember that, in line with the principle of complementarity, the primary responsibility for preventing the most serious crimes rests with States parties.

Poland remains committed to the idea of ensuring that mass atrocities are addressed and further crimes are prevented, and continues to support the system of international criminal justice. As the ICC is the cornerstone of that system, we encourage all States to become parties to the Rome Statute. The broadest possible participation in the work of ICC should help to put an end to the most serious crimes under international law, no matter where they are committed.

We place a high value on the African States' participation in the discussion on the international system of justice. The fact that African countries make up the biggest United Nations regional group among the States parties to the Rome Statute shows their commitment to the fight against the most serious crimes of international law. In that context, however, it was with regret that we learned about the decision of some countries to withdraw from the Rome Statute. We hope that they will reconsider their position.

The continual enhancement of the Court's effectiveness is vital in the process of fighting impunity for the gravest crimes under international law. Cooperation with the Court is essential in order to suppress the grave crimes threatening peace, security and well-being of the world — that being the paramount consideration of the ICC and among the prime concerns of the Security Council and the United Nations at large.

Poland reiterates its support for the ICC as a court capable of instituting effective proceedings, thereby helping to maintain peace around the world, whose jurisdiction is widely recognized. Stability, along with the efficient use of resources, is crucial for dispensing justice expeditiously. The Court's new permanent premises should allow for progress in that respect. For the thousands of people across the globe who have suffered as a result of massive crimes, that building stands as a symbol and a promise of long-awaited justice. We have to do everything we can to make sure that their hopes are not dashed. We should spare no effort to continue supporting the Court in fulfilling its mandate and to protect its independence and impartiality.

**Mr. Mohamed** (Sudan) (*spoke in Arabic*): The Sudan would like to reaffirm its dedication to the principles underlying the United Nations. Those principles have as their objective the maintenance of international peace and security, the strengthening of sustainable development and the protection of human rights through international cooperation and dialogue in order to enhance cordiality in international relations

and contribute to the peaceful settlement of disputes. To that end, the Charter of the United Nations includes provisions that require respect for the sovereignty of States and non-interference in the internal affairs of States so as to ensure their political independence and territorial integrity. International justice must be viewed as a way to overcome economic, social and political differences and prevent the use of force in international relations.

The fight against impunity is a noble objective, which should not be the subject of differences of opinion. It is the concern, first and foremost, of national judicial bodies, within the extent of their legal powers. Attempts to politicize international justice are a platform for narrow interests and go against the objectives agreed to by the international community in order to achieve justice and succesfully fulfil the purposes and principles of the Charter. Such attempts violate international law and lead to increased tensions within the international community, instead of strengthening peace, as advocated by the Charter.

At a time when we are deliberating on the report of the International Criminal Court (see A/71/342), it is relevant to note that relations between the United Nations and the International Criminal Court (ICC) should take into account the independent nature of the two bodies and that there is no organic or structural link between the two entities. It is therefore very perturbing to see attempts by some States parties to the Rome Statute to prevail upon the General Assembly to usurp the prerogatives of the ICC, and vice versa.

My country has already expressed its position in that regard (see A/70/PV.95) and denounced the trends reflected in the draft resolution (A/70/L.47) on the ICC report. The sponsors of the draft resolution intend to propose a new paragraph containing vague interpretations that do not reflect the spirit of Vienna Conventions and Optional Protocols, and which we denounce. The Sudan consistently maintained this position during the informal consultations on the draft resolution. We would like to state that we uphold that position and to call upon States to agree to the existing provisions and to reject any vague interpretations.

The practices of the ICC clearly reflect its transformation into a tool for international disputes and a mechanism for politicization. The Court focuses exclusively on Africa and is targeting African leaders and symbols, something which has compelled African public opinion to describe the Court as being run by the big Powers, whose aim it is to target developing countries.

A number of questions demand answers. Where is the justice for the crimes committed in other parts of the world, and why is the ICC turning a blind eye to those atrocities? Is the ICC not a world court charged with combating impunity everywhere? Where are the guiding principles of neutrality, independence and integrity when it comes to dispensing justice? These are difficult issues for which we have sought answers from the ICC, but in vain. The conduct of the Court, however, provides us with a response. The ICC is focusing on one thing, and that is targeting Africans and African States.

The relationship between the ICC and the Security Council is a flagrant form of politicization. There should not be any link between the Security Council and the ICC. The Council, in fact, has the prerogative of bringing some countries before the Court while it spares others. This is a relationship that clearly reflects the existence of conflict between the interests of justice and political interests.

We are not the only ones to express our profound concern regarding the negative impact of voluntary contributions to the budget of the Court. These are contributions that harm the integrity and independence of the ICC. Nor are we the only ones to express our concern about the ambiguity that has been compromising the spirit of integrity embodied in the Charter of the United Nations. This is an ambiguity that has been described by an ICC official as being positive. This same ambiguity has led one a European Minister for Foreign Affairs to say that the jurisdiction of the Court cannot apply to his own State.

The actions of certain States that are using the ICC as an instrument for foreign policy are cause for concern. Such States are funding the ICC in the framework of the voluntary contribution system. Fifty per cent of the ICC annual budget is provided by such States, despite the fact that the Court is meant to be an independent body, including in terms of its finances.

This has given rise to a form of conflict between justice and peace. We certainly recall a remark by a former Prosecutor of the Court, who said that he had no interest in the efforts made by States to bring about peace. This was included in a legal report of the Court.

Today we are witnessing, particularly from the African perspective, structural obstacles within the Court, which has become a politicized body with double standards. We expect these obstacles and that politicization, which stain the reputation of the ICC, to be eliminated in the near future. We hope that the Court will be able to exercise its authority with full regard for the principle of transparency.

The Court has been reaping what it sows. Yet justice is a noble principle, which should not be subjected to political calculations. The International Court of Justice, with its record of peaceful settlement of disputes between States, has been in existence since 1946. Instead of imposing jurisdiction over countries, that Court, pursuant to Article 36 of its Statute, exercises its jurisdiction only when States parties refer cases to it. Those who favour the International Criminal Court express their concern and disappointment over the position taken by African States and other States throughout the world. The population of those countries is more than 60 per cent of world's population.

We pose the following question: In the 14 years since the adoption of the Rome Statute, what is the number of cases in which the ICC has taken a decision? Over 14 years, just three. Another question arises: What are the expenditures of the Court in order to deal with these matters? Well, here we are talking about millions of euros in expenditures. For one case, it can be $1.5 million. How can we call this justice? How can such a court combat impunity, I ask? Add to all of that the fact that the cases in which the Court has taken a decision have all been African cases.

The Secretary-General's reports (A/71/346 and A/71/349) should respect the relationship between the United Nations and the International Criminal Court without providing any vague explanations. My delegation expresses its concern over the interference of the international community in the prerogatives of the Secretary-General and its dictating to officials the manner in which the reports should be submitted and how they should carry out their obligations.

In conclusion, my country reaffirms its dedication to combating impunity and in favour of justice. As for the two bodies which are competent to deal with justice, we refuse any cooperation with the ICC, to whose Statute we are not a party. We have no obligation to that body pursuant to the Vienna Convention.

**Mr. Ruda Santolaria** (Peru) (*spoke in Spanish*): My delegation reaffirms Peru's commitment to the fight against international impunity and to the International Criminal Court (ICC), which, in accordance with the principle of complementarity, is the institution in the best position to prevent the most serious crimes from going unpunished. In that context, we welcome with interest the report of the International Criminal Court on its activities in the 2015-2016 judicial year (see A/71/342), which has just been submitted to the General Assembly in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court and with paragraph 28 of resolution 70/264.

Likewise, Peru reiterates its recognition of the work of the Court, which is unfolding in strict compliance with the provisions of the Rome Statute and is not influenced by any other type of consideration. This is reflected in the unprecedented caseload currently on the ICC docket, which consists of 23 cases and 10 situations.

Among the judicial developments of the past year, my delegation wishes to emphasize that the Court has confirmed the first war crime indictment in relation to the destruction of historic monuments and buildings of a cultural character, among other things. In addition, we welcome the fact that the Court has moved into its own headquarters on a permanent basis.

Despite these advances, Peru recognizes that international criminal justice continues to be an aspiration, and that the International Criminal Court, as a young judicial institution on the international scene, needs greater support and a higher level of cooperation. Such support should come not only from States parties to the Rome Statute, but from all States Members of the United Nations. Likewise, we hope that we will have fruitful debates at the current session and that they will lead to a draft resolution that reflects the interests of the international community as a whole in the fight against international impunity.

Recognizing, on the other hand, that the Court can continue to improve its efficiency, Peru supports the adoption of measures of a practical nature, in conformity with the Rome Statute, to streamline procedures and improve the effectiveness of the Court, including the proposed amendments, provided that they do not undermine due process or the rights of the parties and the victims.

My delegation wishes to reiterate the need for further progress towards a comprehensive reform of the Security Council, particularly with regard to its working methods and the use of the veto. That is especially relevant given the imperative of preventing heinous crimes. When a State has been unable to meet its sovereign responsibility to protect its population, we have observed that the international community has been unable to adequately respond and the Security Council has been unable to meet its primary responsibility of maintaining international peace and security. Therefore, Peru supports the French initiative and the Accountability, Coherence and Transparency Group initiative on the code of conduct regarding Security Council action against genocide, crimes against humanity or war crimes.

As to the relationship between the ICC and the Security Council, my delegation wishes to emphasize that, for the first time, the Council, through its presidency, has responded to letters of the International Criminal Court on situations referred by that organ. Nevertheless, it is clear that much remains to be done with regard to strengthening this relationship.

In another vein, Peru — which belongs to the informal ministerial network for the International Criminal Court — attaches the greatest importance to the universality of the Rome Statute. Therefore, out of concern at recent developments that may affect such universality, we take this opportunity to call on States that have not yet done so to consider ratifying the Statute, preferably in its 2010 version.

Peru is a peaceful and stable country that has overcome serious internal conflicts in its history. That was possible thanks to the application of genuine accountability mechanisms, which are the best way of preventing the recurrence of serious human rights violations. We therefore encourage States' efforts in promoting the universality of the Rome Statute and strengthening national jurisdictions, which is also directly related to implementing the 2030 Agenda, specifically Sustainable Development Goal 16. That Goal is an important platform for better incorporating matters related to international justice into the framework of the rule of law and for accessing justice at the national and international levels.

**Mrs. Pino Rivero** (Cuba) (*spoke in Spanish*): The Cuban delegation takes note of the report (see A/71/342) of the International Criminal Court (ICC), which was presented by Ms. Silvia Fernández de Gurmendi, and it wishes to express before the General Assembly its commitment to the fight against impunity for crimes that affect the international community.

The current international state of affairs and the events that have taken place over the past few years clearly demonstrate the need for an autonomous international judicial body that can lead the fight against impunity for the most serious crimes. However, in the light of article 16 of the Rome Statute and the ample powers bestowed upon the Security Council in relation to the work of the International Criminal Court, the Court is far from being an independent institution. Apart from undermining the essence of the organ's jurisdiction, that issue violates the principle of independence of judicial bodies and the transparency and impartiality of the administration of justice. The referrals made to the Court by the Security Council confirm that negative trend, to which our country has referred on various occasions.

In the Security Council's referral processes international law is constantly violated and developing countries are attacked in the name of a supposed fight against impunity. It is for that reason that Cuba reiterates its support for the establishment of an international criminal jurisdiction that is impartial, non-selective, effective, fair, complementary to national justice systems and genuinely independent, and therefore free from subjugation to political interests that might erode its essence.

Unfortunately, issues related to those topics were not settled at the Review Conference of the Rome Statute, held in Kampala from 31 May to 11 June 2010, and the Court, as an international criminal jurisdiction, continues to be subjected to decisions of the Security Council that are unlawful, anti-democratic, abusive and in breach of international law. The Council continues to offer total impunity to those really responsible for crimes against the international community.

It is unfortunate that various Security Council resolutions stipulate that crimes committed by forces of to certain Powers members of the Security Council that are not parties to the Statute of Rome remain exempt from any investigation. Such standards are offensive to the international community; they are evidence of the political double standard with which the the Council operates, and they violate the principles governing the work of the International Criminal Court.

The Cuban delegation reiterates that the International Criminla Court cannot ignore international treaties and the principles of international law. The Court must respect the legal principle concerning the consent of a State to be bound by a treaty, as provided for in article 11 of part II of the Vienna Convention on the Law of Treaties of 23 May 1969.

Cuba wishes to reiterate its serious concern regarding the precedent set by the decisions of the Court to initiate judicial proceedings against nationals of States non-parties to the Rome Statute that have not even accepted the jurisdiction of the Court, pursuant to article 12 of its Statute.

As rightly noted in the report, the Rome Statute was never meant to replace national courts. We should not lose sight of the fact that the International Criminal Court must remain independent of the political organs of the United Nations and always function in a complementary way to national criminal courts.

For 50 years the people of Cuba have been victims of every form of aggression. Harassment and aggression have caused thousands of deaths and injuries in our country; hundreds of families have lost children, parents and siblings and there have been innumerable material, economic and financial losses. However, the definition of the crime of aggression arrived at during the Kampala Conference is far from encompassing some of the elements mentioned here. The definition of the crime of aggression should cover all forms of aggression that occur in international relations among States. It should not be limited to the use of armed force, but should also include aggression that affects sovereignty, territorial integrity and the political independence of States.

The International Criminal Court must report to the General Assembly on its activities in accordance with the Relationship Agreement. Although Cuba is not a party to the Criminal Court, it is willing to continue to actively participate in negotiation processes related to the Court, and especially on the draft resolution on the report of the International Criminal Court, which the General Assembly adopts every year, which must reflect the positions of both States parties and States non-parties to the Court.

Cuba reaffirms its will to fight impunity and maintains its commitment to international criminal justice, to the principles of transparency, independence and impartiality and to the unrestricted application of and respect for international law.

**Ms. Yparraguirre** (Philippines): My delegation would like to thank President Silvia Fernández de Gurmendi for her comprehensive report to the General Assembly.

The Philippines reaffirms its commitment to fighting impunity, to ensuring that perpetrators are held accountable for their crimes and to seeing that criminal justice is delivered. For peace and security would not be possible without justice. Without peace based on justice, the achievement of our 2030 Agenda for Sustainable Development will be compromised.

Ensuring that individuals are held accountable for international crimes has been a defining achievement of international law. That is the legacy of Nuremberg, after the Second World War, when it was decided that:

> "Crimes against international law are committed by men, not by abstract entities, and only by punishing individuals who commit such crimes can the provisions of international law be enforced."

Over the 70 years since the United Nations was founded in San Francisco, the prayer of our founding fathers and mothers remains a beacon of hope and commitment to save us — and those after us — from the scourge of war, which twice in their lifetime brought untold sorrow to all humankind.

Among its many achievements, the United Nations counts the rule of international law at the apex. In international criminal justice, the United Nations, through the International Law Commission and the initiative of Trinidad and Tobago in 1989, recognized the undeniable clamour for a permanent international criminal court, which culminated in the diplomatic conference and the adoption of the Rome Statute in 1998, its entry into force in 2002, and the election of the first bench of judges in 2003.

Just as Nuremberg pointed to individuals as authors of untold sorrow and injustice to multitudes, so must we recognize individuals who contribute to the collective work of delivering international justice, a vocation that is certainly difficult, sometimes thankless and possibly dangerous. Indeed, it is people individually, rather than collectively, who make justice work: members of the Secretariat across the United Nations family who are involved in the delivery of justice; the judges of the Court, the Prosecutor and their respective staffs; the

President of the Assembly of States Parties and his team and the lawyers, civil society advocates, witnesses and the victims — they are all unique individuals, but together they contribute in varying, but none the less valuable, degrees to the common goal of delivering international criminal justice.

Our goal is universality. We join the call for many more countries to ratify or accede to the Rome Statute, particularly from our Asia-Pacific region. We welcome the accession of El Salvador as the newest State party to the Rome Statute. States parties or not, we should help each other to protect human rights and build domestic capacities, including through assistance with human resource development such as the training of judges, prosecutors, the police and the military.

The five permanent members of the Security Council should refrain from using their veto in situations involving mass atrocity crimes that are under the jurisdiction of the International Criminal Court. For that reason, the Philippines supported the code of conduct regarding Security Council action against genocide, crimes against humanity or war crimes, elaborated in the context of the Accountability, Coherence and Transparency Group. We also call on the Security Council to take the necessary follow-up measures regarding situations that it has referred to the Court, so as to uphold the credibility of both institutions and ensure accountability.

The Philippines pays close attention to the increasingly heavy workload of the Court: its pending judicial proceedings, situations and preliminary examinations. It is our hope, however, that the International Criminal Court will continue to deliver on its mandate with the utmost dedication, impartiality, efficiency and integrity.

**Mr. Wenaweser** (Liechtenstein): We thank President Silvia Fernández de Gurmendi for the presentation of the report of the International Criminal Court (see A/71/342), which illustrates the impressive progress the Court has made in the reporting period.

We regret the recent decisions of South Africa and Burundi to leave the Court. South Africa in particular was instrumental in the drafting of the Rome Statute, and without its contribution, the Court would not have been established. We hope that its role as a leader in matters pertaining to human rights and justice will cause the Government to reconsider its decision.

The decisions to withdraw come at a moment when the Court has made significant progress in its judicial work and is regarded as a body that will dispense justice all around the world — from Africa, where the largest part of the International Criminal Court community has its home, to other parts of the world, including places like Syria, where the Court does not yet have jurisdiction. In our quest for universality, any country leaving the Court is naturally an unwelcome development.

At the same time, now is also a moment to pause and reflect on the historic significance of the institution and to rally around it in support. We are encouraged to see that policymakers, civil society and Governments all around the world have been doing just that, including this morning in the debate.

The Rome Statute is without any question one of the biggest achievements in the history of treaty-making and codification of international law. Even States that have not yet decided to join it turn to its provisions, in particular with respect to the definition of crimes. And with all the difficulties the Court has had to overcome, the Rome Statute itself has demonstrated its value and worth since its entry into force. In today's climate, we would probably have difficulty even setting up a process to negotiate a treaty for an independent international court with jurisdiction over the most serious crimes under international law; we certainly would not be able to agree on an outcome. The achievement reflected in the Rome Statute is unique, and today provides an opportunity to stand up for it.

The mere existence of the Court has given hope and voice to victims on every continent and will continue to do so. A court with the mandate to adjudicate the most serious crimes under international law and to do so with a policy of seeking accountability for those with the largest share of responsibility is bound to come under political pressure. And that is why we are asking those States that have joined it — almost two thirds of the United Nations membership — to stand up for it.

That is not to say that everything is perfect; discussions are needed to make the Court a better institution. We have consistently engaged in a critical analysis of its performance in a manner that is open and productive at the same time. Its proceedings can be, and must become, more efficient and more effective. We understand that others have their own concerns and we will continue engaging with them in that regard.

And certainly, at such a critical juncture, engagement is more important than ever. We are prepared for it, on the understanding that the integrity of the Rome Statute, and of its key provisions in particular, provides the context in which those discussions will take place.

Without universality, the reality remains that the ability of the International Criminal Court to provide justice for victims in many countries is subject to the political will of the Security Council — usually with no result. Nowhere has the Security Council's inability to provide accountability been more apparent than in Syria, where the most serious crimes under international law have been committed in a widespread and often systematic manner and are well documented. The proposal to refer the situation to the International Criminal Court was vetoed in 2014, and the Council has been silent ever since on the issue of accountability for crimes in Syria and has been paralysed with regard to all other aspects. We look forward to working with those that are willing to commit to making the Court a more universal institution, especially at this difficult juncture.

While business as usual is certainly not the order of the day, it is important that the work of the Court continue. And crucial developments have indeed taken place in the reporting period. Eight additional States have ratified the Kampala amendments on the crime of aggression, bringing the total number of ratifications to 32. That means that the threshold of 30 ratifications required for activation has been reached. States parties are therefore able to activate the jurisdiction of the Court over this crime in 2017. The decision will make the most serious forms of the illegal use of force justiciable before an international court for the first time since the Nuremberg trials, whose seventieth anniversary we are commemorating this year. The Court will thereby help to enforce a key provision of the Charter of the United Nations: the prohibition of the illegal use of force.

We are committed to working closely with all States parties — those that have ratified and those that have yet to do so — towards a smooth and simple activation decision in a year's time. We also continue our outreach to States to further increase the group of ratifiers and to engage with States that are interested in ratifying and implementing the Kampala amendments.

We encourage States that are interested in joining the ICC to ratify the Rome Statute in its 2010 version with the Kampala amendments, just as El Salvador has done during the reporting period.

**Mr. Emilou** (Cyprus): At the outset, I would like to express my warm appreciation to President Fernández de Gurmendi for her comprehensive presentation of the report covering the period from 1 August 2015 to 31 July 2016 (see A/71/342).

My delegation aligns itself with the statement delivered earlier by the observer of the European Union and would like to deliver additional remarks in its national capacity, focusing on the goal of universality of the Rome Statute.

It is our firm belief that the International Criminal Court (ICC) significantly contributes to the overall goal of the United Nations to work towards a more just and peaceful world, serving, in this way, the purposes and principles of the Charter of the United Nations.

As reflected in the report, the Court had another very full year in terms of judicial proceedings, investigations, preliminary examinations and institutional developments. The Court, as it continues at full speed, is currently seized of 23 cases and 10 situations in different parts of the world, and a larger number of crimes under the Rome Statute.

On 27 September, the Court delivered its judgment in the *Ahmad Al-Faqi Al-Mahdi* case. The Trial Chamber unanimously found Mr. Al-Mahdi guilty as a co-perpetrator of the war crime consisting in intentionally directing attacks against religious and historic buildings in Timbuktu, Mali, in June and July 2012. It was the first time that the Court dealt with the intentional destruction of cultural property in the context of a conflict, which is defined as a war crime under article 8 of the Rome Statute. In its reasoning, the Court reflected some of the longest-standing and most firmly established principles governing the conduct of hostilities. It echoed in substance the Regulations concerning the Laws and Customs of War on Land — the Hague Regulations, annexed to the 1907 Hague Convention — the 1954 Hague Convention for the Protection of Cultural Property in the Event of Armed Conflict, and the Protocols Additional to the Geneva Conventions of 1949. The cooperation and support of States and organizations such as UNESCO was crucial in bringing the *Al-Mahdi* case before the ICC.

The destruction of cultural heritage in any country constitutes a collective loss for humankind as a whole. Protecting cultural property benefits particularly the country and continent concerned. The recent ICC judgment therefore underlines that the international community remains vigilant in holding accountable those responsible for such war crimes.

That brings me to my next point, that cooperation is the cornerstone of the Court's effective functioning. We are pleased to note that during the reporting period, the United Nations continued to work closely with the Court to further strengthen cooperation and ensure the effective implementation of the Relationship Agreement. We moreover support the further strengthening of that relationship by means of practical steps, such as those set out in previous reports of the Court to the Assembly of States Parties on the status of ongoing cooperation between the International Criminal Court and the United Nations. Furthermore, cooperation with States parties and non-parties remains a key element in the wider effort.

Although, in the *Al-Mahdi* case the Court was able to address the destruction of cultural property in Mali, in other instances it has not been able to deal with similar situations that may have taken place or are still taking place. While the Court has a global mandate, it does not have universal participation. It may be recognized that the universal ratification of the Rome Statute remains the only realistic way of effectively addressing jurisdictional gaps, and consequently current challenges and shortcomings, and it is crucial to the application of the principle of equality before the law and for the effective deterrence of the most serious crimes under international law.

In that respect, we warmly welcome the accession of the El Salvador to the Rome Statute and take this opportunity to call upon all non-party States to ratify the Statute. The large number of ratifications shows a commitment by a majority of countries to ensure accountability for international crimes. During the reporting period, the Republic of Cyprus, along with Denmark —— as co-focal points of the Assembly of States Parties for achieving the universality and full implementation of the Rome Statute —— continued to promote the collective goal of achieving universal adherence to the Statute through various events and initiatives. We are currently in the process of preparing a social media campaign to promote the Rome Statute.

At this important juncture, let us not forget that before its creation, the ICC was thought by many to be a mission impossible. Ever since, and as illustrated by the *Al-Mahdi* decision, it has been tangibly contributing to the advancement of international justice. Yet right now the Court faces its biggest challenge to date. At this critical juncture and as the Court continues to be the indispensable court of last resort, it is more than ever incumbent on us, as Member States, to work tirelessly to maintain its deserved global recognition and further strengthen and support it.

We are deeply perturbed by the decision of South Africa, one of first signatories of the Statute, and that of Burundi to withdraw from the Rome Statute. We are similarly perturbed by the stated intention of the Gambia to withdraw. Although withdrawing from the Statute is a sovereign act of the State concerned, we strongly call on all three countries to reconsider and to share their concerns before the Assembly of States Parties, in accordance with the Statute. We call on all countries that have concerns to utilize the Assembly of States Parties as the appropriate forum for dialogue, while respecting the independence and impartiality of the Court. Together, we have a common interest in fighting impunity for grave crimes against humanity.

We are of the view that to abandon the Court is to assist in thwarting the reach of international justice. We all have a duty to history, present and future, as well as to the victims of heinous international crimes — a duty that we must fulfil by protecting and supporting the Court and helping it to overcome current challenges. In that context, my delegation would like to take this opportunity to reiterate its commitment to the Court and to reaffirm the unfailing support it has extended to the Court since its inception. We also extend an open and eager invitation to engage in a constructive dialogue with all Member States that have concerns.

I would like to conclude by mentioning another milestone development with respect to international criminal law. During the reporting period, the threshold of 30 ratifications of the Kampala amendments to the Rome Statute on the crime of aggression was reached. Currently, 32 States have ratified the amendment. Given that development, after 1 January 2017 States parties will be able to take a decision to activate the jurisdiction of the ICC over this specific crime, thereby completing the coherence of the Rome Statute as conceived in 1998. We look forward to even more ratifications in the coming months, as that will pave

the way for a more impressive activation as soon as possible after 1 January 2017.

We continue to act on all fronts in the hope that we will be able to consolidate and reinforce international criminal justice, rather than deconstruct the Rome Statute system.

*The meeting rose at 1.10 p.m.*

United Nations A/71/PV.38

# General Assembly

Seventy-first session

*Official Records*

**38**th plenary meeting
Monday, 31 October 2016, 3 p.m.
New York

*President:* Mr. Thomson ..... (Fiji)

*In the absence of the President, Mr. Pecsteen de Buytswerve (Belgium), Vice-President, took the Chair.*

*The meeting was called to order at 3 p.m.*

**Agenda item 72** (*continued*)

**Report of the International Criminal Court**

**Note by the Secretary-General (A/71/342)**

**Reports of the Secretary-General (A/71/346 and A/71/349)**

**Mr. Barro** (Senegal) (*spoke in French*): First of all, I would like to thank most warmly Ms. Silvia Fernández de Gurmendi, President of the International Criminal Court (ICC), for the leadership she has shown at the head of the International Criminal and for her introduction of the report on the Court on its activities during the period 2015-2016 (A/71/342). I would like also to pay tribute to all those who within the Court and elsewhere have committed themselves on a daily basis to ensuring that the victims of mass crimes see their right to justice fulfilled. I would also like to thank the various delegations that have had kind words about Mr. Sidiki Kaba, Minister of Justice of Senegal and President of the Assembly of States Parties to the Rome Statute.

Senegal, the first country to have ratified the Rome Statute, remains convinced that a world of peace and stability means justice for all and reiterates its commitment to working with all stakeholders to that end. Consideration of the report of the ICC shows the importance of the Court in the global fight against impunity and in respect for the rule of law. Indeed, the activity of the Court in the reporting period shows that the only permanent international court for prosecuting mass crimes contributes greatly to bringing justice to millions of victims throughout the world.

With its record of holding four trials simultaneously, the Court has reached new levels, particularly with the first case the Court has dealt with on command responsibility and criminal liability, which led to the first conviction for sexual violence and gave the long-suffering peoples involved the feeling that all of humankind had heard their appeals. The arrest of Ahmad Al-Faqi Al-Madhi, the first individual to plead guilty to an accusation made by the ICC for war crimes in relation to attacks on Malian religious and historic buildings in the city of Timbuktu and his conviction on 27 September, a few days after the report was issued, embodies the work done by the Court on behalf of the populations involved.

The preliminary investigations conducted by the Office of the Prosecutor dealing with 11 cases throughout the world and the opening of a new investigation lead us to believe that, slowly but surely, the universality of international criminal justice is making headway. Senegal invites all States to give all the assistance and cooperation the Court needs to allow it to continue to carry out its mandate in the best way possible.

On 8 December 2014, during his election as President of the Assembly of States Parties to the Rome Statute, the Minister of Justice of Senegal, Mr. Sidiki

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Kaba, emphasized that strengthening the relationship between Africa and the International Criminal Court should be of the highest priority. This appeal is even more relevant today, at a time when States parties in Africa have announced their decision to withdraw from the Rome Statute. Senegal, while respectful of the sovereignty of all States, nevertheless hopes that a dynamic consensus will be found so that Africa may continue to play a major role in the fight against impunity within the Assembly of States Parties.

To that end, we must, among other things, join our efforts so that the perception of double standards in the administration of justice, criticized by some and creating misunderstanding, might yield to a common commitment for the requirements of justice and for reparations for the millions of victims who have suffered damages. In an era of accountability, the needs of those victims cannot be disregarded.

Africa is waging a struggle to end impunity for heinous crimes and has reaffirmed that in the founding Charter of the African Union. Senegal remains convinced that through dialogue, unity will be preserved. In this regard, the Assembly of States Parties must remain the platform where the concerns of all States are expressed, and we hope that the Court will continue to be open to dialogue while respecting judicial independence, as it did during its fourteenth session.

Today, the ICC is the only recourse for victims of grave crimes committed by the highest-ranking leaders when the victims' right to justice in their countries is not upheld. The Rome Statute has also established a system of international criminal justice, bringing together States with the primary responsibility for trying and obtaining convictions in heinous crimes defined in the Rome Statute, and as a court of last resort. The support of the international community is therefore essential for ensuring efficiency in the Court's work. I hope that all States parties to the Statute will remain active and that others will join them.

Again, the universal ratification of the Rome Statute and the integration of its norms into the national legislation of States must become a reality if we want all victims, wherever they reside, to have a fair and equal chance at seeing justice. Moreover, we must work towards complementarity by strengthening national judicial systems so that they are in a position to try the most serious crimes that have wounded our collective conscience, thereby letting peace reign. In addition, due to the spirit of openness and cooperation shown by the parties in resolving mutual problems in the interest of peace and justice, the discussion will lead to contributing in a positive manner to strengthening the ideals and principles that unify us all.

**Mr. Elias-Fatile** (Nigeria): My delegation is grateful to the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for the report presented to us today for our consideration (A/71/342). We congratulate the Court on its relocation to permanent premises in The Hague, Netherlands, which was marked with an official opening ceremony on 19 April.

The objective of the ICC is based on the concept that impunity must be challenged and that everybody should be held accountable for their actions. We therefore welcome the Court's appreciable progress in the fight against impunity and crimes against humanity. We commend the Court for its significant contribution to the development of substantive and procedural international criminal law. We also recognize the Court's important contribution to the promotion of the rule of law. Through its work, accountability for genocide, crimes against humanity and war crimes has been strengthened.

We have studied the report before us closely and observed that, during the reporting period, the Court had an unprecedented workload, with four cases at trial simultaneously and several cases at other stages of proceedings. We noted that the Court is currently seized of 23 cases and 10 situations, some of which include its first case involving command responsibility, the first conviction for sexual violence, the Court's first war-crime charge for the destruction of historic monuments and religious buildings, the commencement of reparations proceedings, and convictions and sentences that are now being appealed.

It is also notable that the Office of the Prosecutor received information from various sources alleging the commission of crimes potentially falling within the Court's jurisdiction, including the Court's registration of 410 communications related to article 15 of the Rome Statute of the International Criminal Court, of which 302 were manifestly outside the Court's jurisdiction, 35 were unrelated to current situations and warranted further analysis, 62 were linked to a situation already under analysis, and 11 were linked to an investigation or prosecution. Indeed, that large number of referrals

entrusted to the Court indicates the increasing acknowledgement of its relevance as an apt instrument for fighting impunity.

We welcome improved cooperation between the ICC and the principal organs of the United Nations, especially the General Assembly and the Security Council, including United Nations peacekeeping missions and other United Nations presence in the field. As the main forum for international cooperation and consultation, the United Nations presents a unique platform for promoting the mainstreaming and understanding of Rome Statute issues and considerations into wider areas of international activity. We also note with satisfaction the report's coverage of cooperation with and assistance from States, other international organizations and civil society, as well as the cooperation among relevant partners in the context of supporting and strengthening the Rome Statute system of international criminal justice.

My delegation further welcomes the exchange of information between the Libyan Prosecutor-General's office and the Office of the ICC Prosecutor. We commend the Libyan Prosecutor-General and the Libyan representative to the ICC for their close cooperation with the Office of the Prosecutor. We encourage the two sides to strengthen their cooperation and work together to end impunity in Libya.

My delegation notes that, according to the report, the Office of the Prosecutor continued its analysis of war crimes allegedly committed by Boko Haram and by the Nigerian security forces in the context of the continuing armed conflict in Nigeria. In response to the Prosecutor's request for information on actions undertaken by the Government on this matter, the report adds that the Attorney General and Minister of Justice of Nigeria gave assurances of Nigeria's commitment to supporting and cooperating with the Office.

Against that backdrop, as a committed member of the Assembly of States Parties to the Rome Statute of the ICC, under the leadership of Mr. Sidiki Kaba of Senegal, and a current member of its Bureau, my delegation wishes to reiterate Nigeria's continuing commitment to supporting and cooperating with the Court. Nigeria believes that impunity must be addressed resolutely whenever and wherever it may occur in the world. For this reason, we are faithfully committed to the fundamental values of the Rome Statute and the ideals of the ICC. As we reaffirm our continued membership in the Assembly, Nigeria is prepared to continue to work in concert with Member States to address the concerns that have been raised against the Court.

It is our belief that a global system based on rule of law, where accountability and social justice are the foundation for durable peace, should be a priority goal for the international community, world leaders and citizens alike.

**Mr. Sobral Duarte** (Brazil): My first words are to thank the International Criminal Court (ICC) for its report to the General Assembly (A/71/342) and to commend the Court for contributing to the fight against impunity and promoting respect for the rule of law. I also join previous speakers in thanking the President of the ICC, Judge Silvia Fernández de Gurmendi, for her briefing and her tireless efforts to make the Court a more efficient institution. Brazil is also pleased that the ICC has moved to its new and purpose-built premises in The Hague.

As a proud founder of the ICC, Brazil remains steadfast in its commitment to the Rome Statute system and to the cause of justice that motivated its creation. As an instrument for ensuring that those accused before it are judged with fairness and full respect for their rights, the ICC is a vehicle for justice and peace. I am pleased to recall that not only are all South American countries States parties to the Rome Statute, but also that Latin American and Caribbean States represent the second-largest regional group among States parties. Today more than ever it is important to stress that a misperception of selectivity with respect to the Court's activity will be definitively dispelled only by advancing the universality of the Statute — expanding rather than shrinking the Court's room to operate.

Allow me to underscore the importance that Brazil attaches to the outcomes of the 2010 Kampala Review Conference. We are convinced that the activation in 2017 of the amendment regarding the crime of aggression will represent a major contribution to completing the international criminal justice system. It will give additional meaning to the prohibition of the use of force, thus fostering a more stable, just and democratic world order.

Brazil notes with appreciation that providing justice for victims remains an essential component in the daily work of the Court. We also welcome the fact that reparation procedures are ongoing in four

different cases and that the Trust Fund for Victims has already assisted more than 300,000 persons, with the provision of physical and psychological rehabilitation and material support. We commend the efforts aimed at enhancing the protection of witnesses, including through relocation agreements, and stress the importance of the positive dimension of cooperation through strengthening national capacities.

As reported by President Fernández de Gurmendi, the ICC has reached an unprecedented level of activity. Its workload is increasing significantly. In this context, I recall my delegation's concern regarding the financing of Security Council referrals, an issue of structural nature that goes to the very core of the relationship between the Court and the United Nations, particularly the General Assembly.

Once again, we reiterate our call for the implementation of article 13 of the Relationship Agreement and of article 115 (b) of the Rome Statute, which provide guidance in the sense that such costs should be met, at least partially, by funds provided by the United Nations and not fall solely upon the States parties to the Rome Statute. It is equally important to highlight that, as laid out in Article 17 of the Charter of the United Nations, the General Assembly has the exclusive responsibility to consider and approve the budget of the Organization. The proper funding of referrals would enhance the credibility of both the Court and the United Nations.

The current situation is neither fair nor sustainable. Brazil also notes that some United Nations peacekeeping operations have been providing the Court with much-needed support in the field, always in accordance with their mandate and basic principles.

The quest for peace and justice is always challenging. This challenge is inherent to the search for a more just and cooperative world order. We are cognizant of the different perceptions concerning the activity of the Court. Let us not fall into the trap of operating with false dichotomies that seem to place peace in opposition to justice and sovereignty in opposition to accountability. Rather, we should focus on the shared values that bring the General Assembly together and have made the first permanent, treaty-based international criminal court a reality.

**Ms. Guillén Grillo** (Costa Rica) (*spoke in Spanish*) My delegation would like to thank Judge Silvia Fernández de Gurmendi, President of the International Criminal Court (ICC), for presenting the report on the activities of the Court in the period 2015-2016 (A/71/342), pursuant to article 6 of the Relationship Agreement between the United Nations and the ICC and paragraph 28 of resolution 70/264.

Before continuing, Costa Rica would like to extend its sincere condolences to the Permanent Mission of Chile following the sudden death of Ms. Elena del Carmen Bornand Pérez, a great defender of the Court and a highly esteemed colleague.

The International Criminal Court is without a doubt the single most important achievement of international justice. It was born from the desire of the international community to end impunity for the most serious crimes against humanity and to provide justice for victims. Its heart and its principal strength lie in its *erga omnes* jurisdiction. This is the same principle as the one enshrined in article IV of the Convention on the Prevention and Punishment of the Crime of Genocide and in the Charters of the International Military Tribunals of Nuremberg and Tokyo, as well as in the Charters of the International Criminal Tribunal for Rwanda and the International Criminal Tribunal for the Former Yugoslavia.

Because the aspiration for justice is shared globally, the world needs for there not to be a single State in which impunity finds safe harbour. Accordingly, Costa Rica welcomes the fact that our neighbouring Central American country, El Salvador, became the 124th State party to the Rome Statute, on 3 March. We would like to further congratulate El Salvador for having become the first State to accede to the Rome Statute after the relevant amendments were made to article 8 of the Rome Statute and to the provisions on the crime of aggression.

My delegation further welcomes the ratification of the aforementioned amendments of article 8 and the crime of aggression during the period by Switzerland, Lithuania, Finland, Macedonia, Iceland, Palestine, the Netherlands and Chile. With 32 ratifications, the amendments have surpassed the required minimum of 30, which means that those amendments have entered into force.

Turning to another subject, my delegation is alarmed by the rejection of the Rome Statute by any State party thereto, based on the deeply held belief that such decisions only harm victims. Nothing should lead us to turn our backs on our common goal of providing

justice and reparations to those who have suffered the consequences of atrocity crimes.

On the specific issue of victims, my delegation acknowledges and welcomes the fact that the Trust Fund and its implementing partners at the local level continue to provide assistance to more than 300,000 victims in the north of Uganda and in the Democratic Republic of the Congo in the form of physical and psychological rehabilitation services and material support to survivors of crimes under the jurisdiction of the Court.

Returning to our common goal of putting an end to impunity for atrocity crimes, it is important not to lose sight of the fact that the ICC is a court of last resort and that it was not established to substitute for or replace domestic courts. Responsibility for investigating and prosecuting crimes committed under their jurisdiction lies first and foremost with the legal systems of each individual State. For that reason, complementarity is an essential part of the apparatus of international criminal justice.

Nonetheless, it is also essential to fully understand that when the competence of the Court is triggered in line with the provisions of the Rome Statute, States parties must comply with their binding responsibilities that arise from the Statute. Things have taken a particularly serious turn when non-compliance results in the refusal to provide the support required for the investigations of the Prosecutor, thus impeding or making difficult access to evidence, which could derail the trial process and thereby create an opportunity for impunity. Similarly, the fight against impunity is obstructed every time a State party fails in its obligation to execute valid arrest warrants. The failure of cooperation also impedes providing victims the justice they demand and deserve.

Not cooperating with the Court under the pretext that it is not impartial because a high percentage of its cases are found in the same region is unacceptable. Those who make that argument are trying to ignore the fact that the situations in Mali, Côte d'Ivoire, Uganda and the Democratic Republic of the Congo, and the two situations in the Central African Republic, were referred to the Court by the Governments of those very countries. Moreover, the situations in Libya and the Sudan were referred by the Security Council. Only 2 of the 10 situations — those in Kenya and Georgia — had been initiated *proprio motu* by the Office of the Prosecutor. Therefore, only one of these situations is found on the African continent. It would be inconsistent with our common goal of fighting against impunity and guaranteeing access to justice to call for the Office of the Prosecutor to reject referrals from State parties with the aim of maintaining a geographic balance in its cases.

In the period included in the report, the Court had to deal with an unprecedented workload, including four cases that were in the trial stage simultaneously and several more in other stages of proceedings. I wish to mention two judgments of great relevance. The first is the verdict against Jean-Pierre Bemba Gombo, whom the Court found guilty of crimes against humanity and war crimes, the first case involving command responsibility and the Court's first conviction for sexual violence. The second was the iconic judgment in September in which the Court found Ahmad Al-Faqi Al-Mahdi guilty of a war crime for the destruction of historic monuments and sacred sites in Timbuktu.

The Court currently has before it 23 cases and 10 situations, as other delegations have mentioned. In order to continue fulfilling its mandate, the Court requires the support and cooperation of the entire international community, particularly the United Nations, which shares the ideals of accountability, the protection of human rights and the maintenance of international peace and security. It is for that reason that my delegation would like to reiterate the need for the United Nations to participate in the financing of the referrals to the International Criminal Court by the Security Council.

Given that the Charter of the United Nations confers the responsibility for the maintenance of international peace and security on the Council, the Court, by accepting those referrals, is helping the Council comply with its mandate. For these cases of cooperation, article 13 of the Relationship Agreement between the Court and the United Nations, on financial matters, which provides for the economic contribution of the United Nations, should then be applied.

In conclusion, Costa Rica wishes to emphasize its full support for the International Criminal Court and its commitment to continue supporting the universalization, independence and integrity of the Court so that, together with other States parties and with the support of the community of nations, we can together ensure respect for and fulfilment of international justice.

**Mr. Logar** (Slovenia): I would like to begin by thanking the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for introducing the annual report of the Court (A/71/342) and by expressing Slovenia's strong support for the Court and appreciation for its ongoing contribution to combating impunity for the most serious crimes and strengthening the rule of law. The report of the ICC before us affirms an unprecedented increase of the Court's workload, which yet again attests to versatility of its activities in support of bringing justice to victims of the most serious crimes.

The Court has continued its work on many situations and has delivered important rulings in the field of international criminal law. These include the first case involving command responsibility, which resulted in a conviction for sexual violence, and the first conviction for the destruction of historic monuments and sacred sites, which was also the first conviction delivered on the basis of an admission of guilt. The report further highlights the Court's engagement in 10 preliminary examinations in nearly all regions of the world, including Latin America, the Middle East, Asia, Europe and Africa.

Furthermore, Slovenia would like to acknowledge the progress made with respect to the reparations proceedings. Reparations to victims is an important feature introduced in the Rome Statute system that helps place victims at the very centre of this system.

The Court has also continued fulfilling important tasks to further improve its efficiency and effectiveness. The effective and efficient functioning of the Court with due regard for procedures of fairness is important to strengthening its credibility. Slovenia therefore commends the dedication of the Court, in particular the personal dedication of its President, in improving the Court's efficiency by, inter alia, expanding the Court's performance through projects designed to evaluate the Court's size and output.

Although the ICC report highlights many of the Court's activities and achievements since the last reporting period, it also reminds us of several challenges that it faces. Slovenia regrets the recent decisions of some States to withdraw from the Rome Statute. We note with equal concern that certain other countries also have the intention to withdraw from the Statute. While a decision to withdraw from a treaty is a State's prerogative, it is with concern that we have learned of decisions to that effect. The creation of the ICC was one of the most historic achievements in international law and human consciousness. The International Criminal Court is the first permanent international criminal court. It offers hope and a chance of last resort to victims of atrocities who would otherwise remain unheard. Slovenia hopes that any decision to withdraw as a State party will be reconsidered.

My delegation acknowledges the importance of engaging constructively and openly on concerns that States might have with respect to the functioning of the ICC. We remain ready to continue to engage. We are also convinced that the Assembly of States Parties to the Rome Statute remains the most appropriate forum to engage in a dialogue among the ICC States parties.

I would now like to focus on three key areas of importance: universality, the principle of complementarity and international cooperation. Addressing challenges in these areas through concerted efforts and constructive dialogue on the part of the Court, but particularly on the part of States, international and regional organizations, as well as of civil society, is essential to ensuring an effective and independent Court and to achieving accountability.

Turning to the issue of universality, Slovenia welcomes El Salvador's accession to the Rome Statue and invites other States to join. We further welcome the ratifications of the Rome Statute amendments, including the Kampala Amendments and the article 124 amendment. We welcome the fact that the threshold of 30 ratifications of the crime of aggression amendments has been met this year. The universality of the Rome Statute remains an important goal for Slovenia. It is only through universal outreach that the International Criminal Court can truly develop to its full potential and avoid the criticism of being selective or unable to reach out to victims in need of its protection. Slovenia therefore welcomes the call in the ICC report for encouraging further efforts by the United Nations community to promote the universality of the Rome Statute.

One of the fundamental principles of the Rome Statute is the principle of complementarity. The Court is a court of last resort and will act only when States are genuinely unwilling or unable to investigate and prosecute atrocity crimes. The effective implementation of the principle of complementarity therefore requires not only willingness, but also appropriate national

legislation, the necessary capacities and inter-State cooperation. Slovenia, together with Argentina, Belgium and the Netherlands, remains engaged in such efforts, in particular through the initiative to adopt a multilateral treaty for mutual legal assistance and extradition for the domestic prosecution of genocide, crimes against humanity and war crimes. I would like to use this opportunity to invite other States to join over 50 States in supporting the mutual-legal-assistance initiative.

The Court's effectiveness depends to a large degree on the effectiveness of international cooperation, particularly on the part of States, as well as that of international and regional organizations. Slovenia is concerned that 13 arrest warrants issued by the Court remain outstanding — some of which have already been so for several years — representing a notable challenge for the Court. Full and prompt cooperation with the Court is an international obligation under the Rome Statute. Instances of non-cooperation attest to the need for additional efforts to improve cooperation in that field.

Undeniably, the United Nations is a natural and important partner of the ICC. Slovenia welcomes the rich cooperation between the Court and the United Nations, both with Headquarters, as well as with the peacekeeping missions and other United Nations presences in the field. In that respect, Slovenia welcomes the conclusion of a memorandum of understanding with the United Nations Multidimensional Integrated Stabilization Mission in the Central African Republic. We further recognize that mission mandates should contain the authorization for the mission to support national authorities in their efforts to combat impunity.

Given the powers vested in the Security Council, the Council's support for the ICC is particularly significant for the effectiveness of the Court. Slovenia therefore supports efforts to further improve cooperation between the Security Council and the ICC and recognizes the importance of the full implementation of the Relationship Agreement between the United Nations and the ICC. Furthermore, Slovenia supports the initiatives urging members of the Security Council to refrain from exercising their power to veto in situations of atrocity crimes. A veto in such circumstances not only fails the victims of atrocities but affects the credibility of the Court, which is then prevented from addressing some of the most urgent and devastating situations.

In conclusion, Slovenia remains firmly committed to advocating and promoting the rule of law and international criminal justice. The ICC is an important tool for the prevention and prosecution of atrocity crimes and deserves our strong political commitment and cooperation, as well as our constructive and open engagement in addressing the outstanding challenges facing the Court, while preserving its fundamental principles.

**Mr. Bin Momen** (Bangladesh): Bangladesh takes note with appreciation of the comprehensive report (A/71/342) of the International Criminal Court (ICC), presented by Her Excellency Judge Silvia Alejandra Fernández de Gurmendi, President of the Court, pursuant to article 6 of the Relationship Agreement between the United Nations and the ICC.

We take note of the enhanced engagements of the ICC, including the Office of the Prosecutor, and the corresponding increase in the level and scope of cooperation between the United Nations and the ICC. We commend the recommendations put forward in the report with regard to further strengthening the interface between the Organization and the Court for the attention and consideration of both State parties and non-State parties to the Rome Statute. It is critical that the ICC's mandate and competence be recognized in relevant discussions and resolutions throughout the Organization with a view to ensuring the acknowledgement of the Court's potential contributions to international peace and criminal justice.

As a State party, Bangladesh appreciates the work done by the Bureau of the Assembly of State Parties to the Rome Statute and that of its designated co-focal points in implementing its plan of action for promoting the universality and full implementation of the Rome Statute. As we welcome El Salvador's accession to the Rome Statute, we share concerns over the decision or plan on the part of certain State parties to withdraw from the Statute. We hope that the international community's collective commitment to fighting impunity and ensuring accountability for mass atrocity crimes will remain unconstrained against the backdrop of such developments. We urge both sides of the debate to exercise maximum restraint in their actions and rhetoric.

In an environment of growing conflicts and humanitarian crises around the world, we underscore the need for informed and continued dialogue among

all States parties and non-States parties in order to uphold the sanctity, integrity and credibility of the Court above and beyond mere political considerations. We encourage the sustained attention of the Assembly of State Parties to the issue of complementarity, which we believe to be a fundamental principle underlying the ICC's functioning as a court of last resort. Bangladesh continues to advocate for the ICC's contributions to strengthening national jurisdictions in the shared pursuit of fighting impunity. It is critical that the varied contexts in national criminal jurisdictions be borne in mind, and that the international norms and standards enshrined in the Rome Statute and exemplified by the ICC's judicial and prosecutorial activities be shared with interested national jurisdictions with a view to further strengthening complementarity.

It is somewhat unfortunate that, while the least developed countries constitute 21 per cent of the State parties to the ICC and account for most of the major conflict and post-conflict settings around the world, their share in the ICC's internship and professional visit programmes has been quite minimal to date. That trend does not augur well for the critical importance of promoting transnational justice in post-conflict settings, as well as for the capacity-building of national jurisdictions to address impunity in the long-term in resource-constrained settings. Our delegation looks forward to addressing that issue through further consultations, including in the context of appropriate budgetary arrangements.

Bangladesh takes note of the progress made in the investigations and judicial proceedings in relation to the ICC's situation countries and the preliminary examinations undertaken by the Office of the Prosecutor during the reporting period. We recognize the need for ensuring adequate resources for the Office to carry out its work in cases referred to it by the Security Council. As a lead contributor to United Nations peacekeeping operations, Bangladesh will continue to extend the necessary cooperation to the Court in mission areas where our peacekeepers and military observers are deployed.

Bangladesh attaches great importance to addressing sexual and gender-based violence during armed conflicts and ensuring accountability and justice for such crimes, including as tactics of war. We take note of the first conviction for sexual violence by the Court, in what has also been its first case involving command responsibility. Bangladesh reaffirms its readiness to share its national experience in ensuring justice for victims of sexual and gender-based violence and the judicial and administrative efforts taken to promote due recognition and reparation for such victims.

One of the most compelling narratives emanating from the Court is the significant number of victims whom it has been supporting through its determination to enforce reparations, as well as its Trust Fund for Victims. We underline the need for the sustained flow of resources to the Trust Fund and others.

Bangladesh takes note of the commencement of the trial in the Court's first war-crime charge for the destruction of the religious and cultural heritage in Timbuktu, Mali. We will continue to follow the trial proceedings with interest.

To conclude, we reiterate the need to avoid any unwarranted measures that might render the legal and judicial proceedings of the Court susceptible to political pressure or other exogenous considerations.

**Mr. Manongi** (Tanzania): The United Republic of Tanzania welcomes the report of the International Criminal Court (ICC) (A/71/342) and thanks the President of the Court, Judge Silvia Fernández de Gurmendi, for her introductory remarks. We also welcome the Court's move to its permanent premises in The Hague, which marks yet another important step in its establishment.

The Court's report presents a picture of an institution that is growing but also facing various challenges and opportunities. We see that fact as a trend that will continue to define the work of the Court and will demand greater engagement from all of its stakeholders. The Court came into being with the strongest support from Africa, following the considerable frustration and outrage over the genocide against the Tutsi in Rwanda. It came into being as an organ with jurisdiction over persons responsible for the most serious crimes: genocide, crimes against humanity, war crimes as well as the crime of aggression. Humanitarian tragedies had brought so much misery and affliction to Africa that the establishment of the Court became a source of inspiration in the fight against impunity and injustice. That promise and hope are still relevant today, if not more urgent.

And yet, as a State party to the Rome Statute of the International Criminal Court and member of the African Union, the United Republic of Tanzania

notes that the Court has had a particularly tumultuous relationship with Africa — one that has engendered fear of an African exodus from the Court. That need not be the case for a number of reasons. First of all, the primary foundation of the African Union Agenda 2063 is to promote a universal culture of good governance, democratic values, gender equality, respect for human rights, justice and the rule of law.

Secondly, it is significant that in order to sustain the momentum of strengthening gender equality and women's empowerment, African Heads of State and Government declared 2016 as the year of human rights, with special emphasis on women's rights — in the recognition that peace and justice are indivisible. For those reasons, we must at the very least encourage dialogue. It is therefore of concern that African countries have come to be critical of the Court, to the point that a policy of non-compliance and non-cooperation with the Court is a real possibility. For the Court to remain a credible institution in the delivery of international justice, it is important that there be confidence-building measures regarding its operations as well as its interactions with all of its members.

All too often, avoidable misunderstandings, when left unattended or dismissed as inconsequential, grow into regrettable outcomes. Lectures or claims of moral high ground from outside Africa are, at best, unhelpful. The recognition and overcoming of avoidable pitfalls associated with new and evolving institutions, such as the Court, are essential if that institution is to continue to grow and become more robust. We must therefore ensure that what is done today does not make matters worse.

We must also make deliberate efforts to talk to one another, remembering that what was needed to establish the Court is not necessarily the same as what is needed to help it grow and discharge its mandate. We must invest in building trust and confidence between the Court and its members. As the Court's work becomes more complex and increasingly affects United Nations Member States, it must listen while remaining true to its mission.

While the report claims that the capacity of the Security Council to refer a situation to the Court is crucial to promoting accountability, it remains a matter of great concern to us that some permanent members can use their position in the Security Council to refer a matter to the Court, although they themselves are not parties to the Court's Statute. The political nature of the Security Council can also undercut the legitimacy of the process.

We recognize that, in most instances, the Court's jurisdiction is triggered when a State is unable or unwilling to deal with human rights violations on its territory. It would be helpful if the primary task of the Court were also to encourage and enable Member States to develop their own programmes of justice and accountability. That effort must be promoted and supported through additional investment.

No matter how current issues between Africa and the Court are eventually resolved, there is no denying that we must all improve our domestic legal and judicial systems so that they can deliver justice fully, fairly, effectively and in a timely manner. Effective and legitimate States are also in the interest of all countries and people. States must be effective, not only because of the need to prevent ICC intervention in domestic affairs, but also because it is the duty of each State to protect its citizenry. For Africa, the tragedies in Central Africa, Côte d'Ivoire, Rwanda and Sierra Leone only serve to illustrate the risks and dangers that we must guard against.

The report also mentions the holding, in Tanzania, of the second Sub-Regional Seminar of Counsel and the Legal Profession, in which the African Union and others will participate. We welcome such opportunities, as they provide opportunities for building skills and exchanging information of value to parties and to the work of the Court. Indeed, in 2012, the African Union Heads of State and Government established the African Institute of International Law in Arusha, Tanzania, to contribute to the strengthening of the rule of law within the African continent. The Institute can serve as a bridge and useful forum for addressing the lack of trust and confidence felt by the African constituency of the Court. The report also appeals for support for the Trust Fund for Victims. Too often victims are easily forgotten, and it is proper that their needs be attended to.

We commend the establishment of the International Criminal Court Bar Association. We hope that it becomes not only a forum for strengthening skills, capacities and court procedures, but also an avenue for consolidating legal norms and democratic institutions.

We note the Court's continuing cooperation with civil society, and we particularly encourage efforts

to strengthen its relationship with civil society in developing countries.

**Mr. Sandoval Mendiolea** (Mexico) (*spoke in Spanish*): Mexico thanks Judge Silvia Fernández de Gurmendi, President of the International Criminal Court, for her presentation of the report of the International Criminal Court (A/71/342) to the General Assembly. The work carried out by the Court contributes to the international rule of law and serves to strengthen the implementation of Sustainable Development Goal 16 of Agenda 2030 for Sustainable Development, which seeks to ensure peace and justice through strong institutions. That makes the presence of Judge Fernández de Gurmendi in the General Assembly more relevant still.

The report submitted by the Court refers to the progress made during the reporting period. We recognize as a relevant development the conclusion of proceedings against Ahmad Al Mahdi for committing war crimes by attacking historical and religious monuments in Mali. That is the first case involving the destruction of cultural property where the defendant has pleaded guilty, which positively contributes to the development and consolidation of international criminal jurisprudence. With that conviction and sentencing, we have a total of four cases that are at the stage of reparations before the Court.

The current global context poses growing challenges to the international community and adds to the challenges facing the Court in fulfilling its mandate. The cooperation of States is the main tool at the disposal of the ICC for the arrest of defendants, for the gathering of evidence and for the substantiation of proceedings in general. However, the lack of cooperation on the part of some States and the failure to carry out the execution of arrest warrants, for example, only encourage the evasion of justice and undermine the very objectives of the system. On the other hand, since the commission of the crimes falling under the Rome Statute could endanger international peace and security, the actions of the Security Council are crucial in carrying out the work of the Court. Only in the period under review, the Court referred three decisions on the lack of cooperation on the situations in Darfur and Libya to the Security Council, for a current total of 15 such cases. In that context, we note that there are three dimensions of cooperation that should be taken into account.

First, States Members of the United Nations have an obligation to comply with Council decisions, which implies cooperating in situations that have been submitted by them to the ICC.

Secondly, the Security Council must follow up effectively on situations referred to the Court, particularly on those in which there has been notification about the lack of cooperation by a State. We agree with the Court that the power of Council referral is crucial to promoting accountability, which should be accompanied by a true administration of justice.

Thirdly, the Security Council cannot tolerate situations of impunity. On the contrary, it has the responsibility to refer situations to the Court, following objective and non-politicized criteria. We regret the lack of action on the humanitarian crisis in Syria, which has resulted from the irresponsible use of the so-called right of veto, which prevented the adoption of draft resolution S/2016/847, introduced on 8 October (see S/PV.7785) by 46 States, including Mexico. The draft resolution appealed to the parties to the conflict to put an end to violations and abuses, which may constitute war crimes and crimes against humanity within the jurisdiction of the International Criminal Court.

My country, along with France, has promoted a joint initiative directed towards the permanent members of the Security Council under which they would commit to refraining from resorting to the veto when the Council is considering situations in which heinous crimes are being committed. That proposal, which has been endorsed by almost half of the United Nations membership, simply cannot go unnoticed.

The report of the Court refers to various activities aimed at strengthening the capacities of States in the fields of justice and accountability, activities that other actors in the international community are undertaking, including within the framework of this Organization and its organs and agencies. As we stated earlier, those forums are most appropriate for that, because that allows those actions to be reinforced. It is not the role of the International Criminal Court to do that, as it is an international judicial tribunal and should focus its efforts on fulfilling its mandate under the Rome Statute.

Finally, my delegation must refer to the recent denunciation of the Rome Statute by some States parties. The universality of the Statute, enhanced by the recent ratification by El Salvador, has to be analysed in the light of those developments. Mexico considers it

appropriate, therefore, to redirect the discussion on the universality of the Rome Statute to a wider reflection, involving the organs of the Court. The fundamental aim of that process must remain the strengthening of international criminal justice in order to preserve the spirit in which the Court was created, which we all agree is to end impunity for the most serious crimes of concern to the community international as a whole.

**Mr. Li Yongsheng** (China) (*spoke in Chinese*): I am pleased to make a statement at this meeting of the General Assembly, under agenda item 72, on the report (A/71/342) of the International Criminal Court (ICC). The Chinese delegation thanks Judge Silvia Fernández de Gurmendi, President of the International Criminal Court, for her report.

China has always attached importance to the role played by international criminal justice bodies in promoting the international rule of law and in punishing serious international crimes. China has always actively participated in a constructive manner in the building of an international criminal justice system, closely following the work of the ICC and participating as an observer State in all Assemblies of the States Parties and expressing China's position and views.

The Chinese delegation has noted that recently a number of African countries have announced, one after another, that they would withdraw from the Rome Statute. We respect the decisions of those countries, and we also understand their long-standing concerns about the ICC. It is thought-provoking that the Court had received widespread welcome and support from African countries at the time of its establishment, but is now faced with increasing criticism, opposition and even withdrawal by more and more African countries.

States bear the primary responsibility for punishing international crimes, eliminating impunity and delivering justice. The Court serves as a complement to national jurisdiction, and the Court should fully respect national judicial sovereignty rather than replace it, still less become a tool for certain countries or group of countries to pursue their own political interests. The question of how to exercise the power of the Court in a prudent manner under the Rome Statute — thereby gaining trust and respect from States parties through the Court's objective and impartial conduct with a view to realizing the original intent of the Court — deserves our serious consideration.

The Chinese delegation has also noted that the amendment on the crime of aggression had been ratified or accepted by 32 States, and that it can enter into force with the consent of the two-thirds majority of States Parties. The Chinese delegation believes that the question of the crime of aggression bears on international peace and security. The Security Council has the exclusive power to determine what constitutes a crime of aggression. The Court's determinations on the issue of the crime of aggression must be applied in an orderly manner within the framework of international law established by the Charter of the United Nations, and can only have jurisdiction over States that have accepted the amendment.

The Chinese delegation would like to reiterate here its support for the efforts of the international community to punish grave international crimes and promote the enforcement of legal justice. At the same time, we hope that the ICC will strictly abide by the Charter of the United Nations and ensure that its efforts to uphold legal justice will truly be conducive to promoting peace, stability and national reconciliation, thereby making a contribution to the course of peace and justice.

**Mr. Van Oosterom** (Netherlands): The Kingdom of the Netherlands aligns itself with the statement made by the observer of the European Union, but in view of the importance of the subject matter at hand and recent developments, we would like to make some additional comments.

The Netherlands joins others in thanking President Fernández de Gurmendi for her presence here today in New York and for her excellent presentation this morning (see A/71/PV.37). We would also like to thank the International Criminal Court (ICC) for its annual report to the United Nations (A/71/342).

Let me address three issues, namely, the fight against impunity, current challenges and universalization.

On my first point, the Netherlands is deeply committed to the fight against impunity for genocide, crimes against humanity and war crimes. That fight is a cornerstone of the system of international criminal justice. The imperative to investigate and prosecute those crimes at a national level is a key principle of all States' legal obligations. The International Criminal Court is the international community's court of last resort in the fight against impunity. The ICC is therefore doing an extremely important job.

As the annual report shows, the ICC has significant achievements to report this year. The landmark judgment in the *The Prosecutor v. Ahmad Al Faqi Al Mahdi* case is a case in point. The internal working methods of the Court have been improved, and that has made the International Criminal Court even more effective and efficient. The Court deserves to be recognized for its achievements this year and supported in its important work.

That brings me to my second subject, namely, current challenges, which has also been addressed by other speakers today. The Kingdom of the Netherlands, as a State party and proud host State to the International Criminal Court, regrets the stated intention of South Africa, Burundi and the Gambia to withdraw from the Court. Some of those countries were closely involved in the negotiations on the Rome Statute and in the establishment of the Court. As the International Criminal Court is still a relatively new institution, we acknowledge that it is not perfect. However, we strongly believe that addressing any shortcomings of the Court can best be done as a State party at the Assembly of States Parties. We need dialogue with other States parties, not withdrawal.

The Netherlands acknowledges that withdrawal from a treaty is always a sovereign act, but we are deeply concerned about the message that that sends to the victims of international crimes worldwide. Those victims deserve accountability, and they deserve justice. And they look to the international community to ensure justice through strong judicial institutions, both domestic and international.

That brings me to my third subject — the need for universalization. The International Criminal Court embodies universal norms and universal values. The Kingdom of the Netherlands emphasizes the duty of all States to honour their obligations under international law to investigate and prosecute international crimes. We urgently call on all ICC States parties to reiterate their support for a strong international criminal justice system and for a strong International Criminal Court. The ICC is the world's only permanent international criminal tribunal. In that connection, the representative of Botswana said earlier that to withdraw from the ICC betrays the rights of the victims of atrocity crimes to justice and that to withdraw also undermines the progress made to date in the global efforts to fight impunity.

Similarly, we are heartened by many other statements in support of the ICC by States, eminent personalities and civil society, who point out that the arc of history bends towards justice. Therefore, the Netherlands urges all States that are not yet a State party to the Rome Statute to ratify the Statute. And we call on States that have announced their withdrawal from the Court to reconsider their decision. We welcome Secretary-General Ban Ki-moon's statement this weekend to that effect. We must make sure that the International Criminal Court remains the strong institution in the fight against impunity that victims of atrocities worldwide need it to be. In short, the Kingdom of the Netherlands reiterates the importance of universal ratification of the Rome Statute by all United Nations Member States.

In conclusion, The Hague is the proud host to a great institution, the ICC. Let us work together to make this venerable institution more effective. Let us work together to make it more universal, countering today's challenges. And let us work together to let the ICC be a safeguard for the people of the world, a safeguard for justice and a s safeguard for peace.

**Mr. García Moritán** (Argentina) (*spoke in Spanish*): At the outset, the Republic of Argentina would like to thank the President of the International Criminal Court, our own Silvia Fernández de Gurmendi, for the report on the Court's activities contained in document A/71/342. I am also grateful for the presentation of the Secretary-General's reports entitled "Information relevant to the implementation of article 3 of the Relationship Agreement between the United Nations and the International Criminal Court" (A/71/346) and "Expenses incurred and reimbursement received by the United Nations in connection with assistance provided to the International Criminal Court" (A/71/349).

The Court, through the laudable work that it has carried out since its previous report, has once again factually demonstrated that it is an essential tool in the fight against impunity and an essential element of the rule of law at the international level. In that connection, Argentina welcomes the fact that the amendments to the Rome Statute of the International Criminal Court on the crime of aggression have reached the minimum threshold of 30 ratifications, thereby giving the Court jurisdiction to hear cases regarding the crime of aggression as of January 2017. Argentina resolutely supports granting the Court that power as soon as possible, as it will cement the legal structure of the

Court and reaffirm the primacy of law and justice over force in international relations.

At a time when some States parties have announced their intention to withdraw from the Rome Statute of the International Criminal Court, Argentina renews its ongoing commitment to the Court and to the universal nature of the Statute. To that end, we call on all stakeholders to engage in constructive dialogue with a view to addressing the problems that may emerge within the Rome Statute system while upholding its integrity.

As for the follow-up to the Court's legal and procedural work, we are pleased to see that it has been able to carry out its activities, both in its preliminary reviews and in the matters and cases brought before it, thus fulfilling its mandate with the limited resources it has been allocated. In that regard, we call on all Member States that are States parties to the Rome Statute of the International Criminal Court to consider the nature of the Court when it evaluates its annual budget so that the budget can be approved at the next Assembly of States Parties and the Court can fulfil its mandate and adequately discharge its essential functions. Similarly, we urge those States to facilitate the streamlining of proceedings by approving the amendments to the rules of procedure and evidence drafted by the judges and discussed at the Working Group on Governance and Budget and the Working Group on Amendments.

I would like to mention that the relationship between the Court and the United Nations is crucial, provided the Court enjoys judicial independence. We recognize the Secretary-General's guidelines on non-essential contact. Nevertheless, the relationship between the United Nations and the Court is also affected by the relationship between the Court and the Security Council, since the Council can refer cases to the Court, and has done so on two occasions. Argentina has voiced some of its concerns for years now, both in the General Assembly and in the Security Council, as a non-permanent member. Pursuant to the Rome Statute, once the Court is referred a case, it can claim jurisdiction over nationals from both States parties and non-parties to the Statute. Indeed, after a referral, no Security Council pronouncement can change the rules of the Statute regarding the Court's jurisdiction in order to provide immunity to nationals of States not parties to the Statue for crimes that fall under the Statute.

I would like to reiterate that thus far, the financial costs incurred by the Security Council when it refers cases to the Court have been borne exclusively by States parties to the Rome Statute. The Statute itself provides that the United Nations must bear the cost of these referrals, and that is also reflected in the Relationship Agreement between the United Nations and the International Criminal Court. Argentina and other Members of the United Nations have called into question this regrettable situation in which the States parties bear the cost of the Council's referrals, despite the fact that the great majority of them support the full implementation of paragraph (b) of article 115 of the Rome Statute and article 13 of the Relationship Agreement.

The fight against impunity is an objective of the States parties to the Rome Statute and of the United Nations, but it must go hand in hand with the commitment to providing the Court with the necessary resources for it to discharge its functions. Inaction, in that respect, could jeopardize the sustainability of the Court's investigations and could impact the credibility of the Organization.

In conclusion, Argentina stresses that the noteworthy contribution of the International Criminal Court to the fight against impunity for the most serious international crimes is also a contribution to furthering the objectives of the Organization. We also highlight, as does the Kampala Declaration, the noble mission and function of the International Criminal Court in a multilateral system whose objective is to promote respect for human rights and attain lasting peace, while upholding international law and the purposes and principles of the Charter of the United Nations. We also reiterate Argentina's firm commitment to the International Criminal Court.

**Mr. Martín y Pérez de Nanclares** (Spain) (*spoke in Spanish*): It is a great honour to address the General Assembly once again on an issue to which Spain attaches the greatest importance. The fight against the most heinous international crimes is, without a doubt, an essential component of the maintenance of international peace and justice, and it is also an unavoidable imperative that derives from the principle of the rule of law. To combat impunity, to bring the perpetrators of such crimes to justice and to do justice to the victims should be an inalienable goal of the entire international community. That is why I fully associate myself with the statement delivered by the observer of the European Union.

Before I continue, I would like to thank the International Criminal Court (ICC) for its detailed annual report to the United Nations for the period from 1 August 2015 to 31 July 2016 (A/71/342). I would like to offer a special, heartfelt thanks to President Fernández de Gurmendi for her interesting and thorough presentation this morning. We congratulate her on her laudable work at the helm of the Court. We also wish to thank Prosecutor Bensouda and the entire staff of the International Criminal Court.

Since the beginning of the drafting of the Rome Statute, Spain has been a staunch proponent of the role given to the Court in the difficult work of fighting impunity using the tools of international law. Additionally, in 2010 my country actively participated in the Review Conference of the Rome Statute of the International Criminal Court. In keeping with its aims, the Kingdom of Spain deposited its ratification instrument for the Kampala Amendments early, on 24 September 2014. Without a doubt, my country will maintain its long-standing, wholehearted and firm support for the work of the Court.

During the period of work covered by the report, Spain's Parliament approved a new law on immunities, organic law 16/2015, which in both its preamble and its articles expressly affirms Spain's commitment to the Court. Spain will never grant preferential treatment or immunities to Heads of State, Heads of Government or Foreign Ministers by citing ordinary law in an attempt to evade prosecution by the Court.

The year under review in the report submitted for the General Assembly's consideration was particularly intense and productive — 23 cases in 10 matters; 11 matters submitted for preliminary review; a new investigation by the Prosecutor — an impressive record. The Court has achieved a good cruising speed, but beyond a quantitative analysis — undoubtedly important — we would note that both the investigations and the reviews carried out by the Court are widely distributed geographically, extending to four continents, to be precise. That is clearly a source of pride and appreciation. It attests to the effective and efficient work of the Court.

My delegation notes with satisfaction that the threshold of the 30 ratifications needed for the entry into force of the amendments to the Rome Statute relative to the crime of aggression was reached this year. As such, Palestine's deposit of its instrument of ratification on 26 June marks compliance with the first requirement established in the Statute for its entry into force. The next step will be for the Assembly of States Parties to set a date for their activation. In that connection, Spain trusts that the Assembly will be able to adopt that decision with the greatest possible support from States parties. Moreover, it is essential to carefully study all manner of implications, judicial and extrajudicial, of the broader Court jurisdiction with a view to avoiding future obstacles to its implementation.

But, along with these positive elements there are also worrisome elements. One very serious concern cannot be ignored — the International Criminal Court is going through a very difficult period, probably the most difficult in its history. For the first time since its creation, three States have announced their intention to use the withdrawal mechanism, provided for in article 127 of the Rome Statute. As a result, effective one year after the date in which the Secretary-General receives written notification, they will withdraw from the Court. Spain deeply regrets the situation and is concerned about its possible implications for the future of the Court.

If such actions are carried out, it would set a very negative precedent. Nevertheless, my delegation believes that the current role of those who resolutely support the work of the ICC should be more about building bridges and being constructive and less about excessive criticism and disproportionate complaints. It may even be an opportune moment for all of us to look critically at ourselves so that we can approach the future of the Court with renewed vigour. That is why we echo the invitation of the President of the Assembly of States Parties, Mr. Sidiki Kaba, to the States in question to reconsider their position.

Whatever the result, the quest for universalization should continue to be a fundamental and essential objective. The same is true for the related principles of complementarity and cooperation. In fact, as regards the latter, it is imperative to once again call for the cooperation of all with the Court — first and foremost States, but probably also the United Nations, as it has the power to improve the mechanisms with which to enforce the obligations arising from the cases submitted to the Court. However, that should not prevent us from commending the important cooperative role the United Nations is already playing. The Court's report can attest to that.

In conclusion, Spain highlights the vital importance of the International Criminal Court in the maintenance of peace, justice and the rule of law through effectively combating impunity for the most serious crimes against humanity. We also reiterate our country's firm commitment to achieving that laudable objective.

**Mr. Hahn** (Republic of Korea): First of all, the Republic of Korea would like to extend its sincere appreciation to the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for her presentation of the comprehensive report (A/71/342). My delegation also commends the joint efforts of the Presidency, the Judicial Division, the Office of the Prosecutor and the Registry in helping to put an end to impunity for the perpetrators of the most serious crimes of concern to the international community as a whole through various means, including the more effective and efficient functioning of the Court.

It has been 14 years already since the International Criminal Court was established as an independent permanent Court, in relationship with the United Nations. The fundamental tenet of that relationship, as envisioned in the Rome Statute, is encapsulated in the reaffirmation of the purpose and principles of the Charter of the United Nations and the preamble of the Statute, which was actively followed in the actual practice of the Court. In that vein, and although running the risk of being somewhat repetitive, my delegation cannot but emphasize the significant role that ICC has played through its work to sustain the three pillars of United Nations activity, namely, peace and security, development and human rights.

Securing criminal justice for perpetrators of grave crimes that shock the conscience of humankind constitutes part and parcel of the rule of law, which provides a solid basis for the successful implementation of the 2030 Agenda for Sustainable Development. Bearing that in mind, we support the ongoing cooperation between the ICC and the United Nations at various levels, as stated in the report and presentation. The Republic of Korea does not see the need to go over the multifarious achievements of the Court thus far, especially during the reporting period. Nevertheless, we would be remiss if we failed to mention precedent-setting decisions such as those relating to international attacks on religious and historical buildings, command responsibility, sexual violence and offences against the administration of justice.

While the progress that the Court has made in its path to ending impunity is quite remarkable, the Court has also been facing a harsh reality on several fronts. With the help of various stakeholders, most notably States parties, the Court should rise above considerable challenges to firmly establish itself as a robust and reliable institution for international criminal justice. I would like to elaborate on those challenges.

First of all, given the sheer pace and scale of the increase in caseload, it is imperative that the ICC enhance efficiency at various stages while not losing sight of the importance of striking a balance between fairness and expediency. In that regard, my delegation appreciates that the Court continues to focus on streamlining its procedures, as demonstrated by the publication of the practice manual of the Judicial Divisions, a useful and comprehensive update to the previous practice manual. Such initiatives are conducive not only to enhancing the effectiveness and efficiency of the functioning of the Court, but also to garnering the renewed support and trust of States parties. My delegation also congratulates the Court on its relocation to the new and permanent premises.

Secondly, as an international Court, the ICC cannot sustain itself without the active cooperation of multiple stakeholders, especially States parties, at each and every step of the process. While the cooperation between the ICC and States parties is vital, it is also indispensable to the proper functioning of the system to secure cooperation vis-à-vis the Assembly of States Parties, the United Nations and other international organizations, civil-society organizations and non-States parties. Against that backdrop, even though it is regrettable that the ICC has been suffering from insufficient cooperation for an extended period of time, it is encouraging that States parties, together with the Court, have been relentlessly making efforts to develop various strategies and tools to cope with the issue of non-cooperation.

Thirdly, the success of our common fight against impunity hinges not only on adequate cooperation, but also on the universal application of the Rome Statute. The number of States parties to the Rome Statute has more than doubled since its entry into force in 2002, which is quite significant. However, it is deeply concerning that the number of new entrants to the ICC family has been on the decline in recent years. Even more disconcerting is that several States parties have withdrawn over the past weeks.

At this juncture, my delegation would like to call upon the States parties that have already made or are considering making the decision to withdraw, to sincerely give it a second thought. There is a Korean saying which reads: "In times of difficulty, recall the resolve at the beginning of the enterprise". Other States parties and the Court also need to enhance outreach efforts to those States and exercise collective wisdom in order to delve into and address the real and perceived concerns of those States. We cannot and should not afford ourselves the luxury of allowing the progress made in humankind's noble efforts to put an end to impunity for the perpetrators of heinous atrocities to take a reverse turn.

The Republic of Korea has been a steadfast supporter of the ICC since its inception. As a member of the Bureau, we are actively participating in concerted efforts to establish the ICC as a responsible, universal and efficient institution to end impunity for perpetrators of the most serious crimes against humanity. Let me conclude my statement with the reaffirmation that the Republic of Korea will continue to spare no effort in this noble and important endeavour at both the International Criminal Court and the United Nations.

**Mr. Amolo** (Kenya): Kenya takes this opportunity to recognize Judge Silvia Fernández de Gurmendi, President of the International Criminal Court. Over the years we have continued to encourage the International Criminal Court (ICC) to expand its activities, enhance its work and improve its efficiencies and footprint so that no country would have a privileged relationship within it. Kenya continues to engage robustly in encouraging and providing guidance to the Court to try and keep it faithful to our collective objective, while keeping it aligned with the letter and spirit of the Rome Statute. As we carefully review the report of the International Criminal Court (A/71/342) that is before us today, we cannot help but renew and underscore our deep disappointment.

This session's report is slightly more encouraging than that of the last session. However, we continue to express our deepest regret that in a world consumed by devastating wars and violent clashes, where hundreds of thousands, if not millions, of people have been adversely affected, that dismal output of tangible results is disheartening and simply confounding. Obviously, something is deeply wrong at the International Criminal Court. With only one new accession during the reporting period, it is clear that the Court continues to enjoy the membership and support of only a small segment of countries in the world. We take note with very keen interest of the recent important developments within the membership and shall continue to actively monitor the unfolding events. Like no other member State, Kenya has actively and intimately interacted with the Court over the past few years and can unequivocally state that something radical and urgent must be done if the Court is to stand any chance of long-term survival as a viable and credible international institution.

A cursory reading of the annual report may lead one to believe that indeed some success is at hand. However, Kenya wishes to highlight a few pertinent issues, for we know and believe that the current application of the Rome Statute is counterproductive and conflicts with its founding ideals. When we, the Member States, established the International Criminal Court, we were convinced that we were setting up a court with higher standards of practices and procedures than those found in our national jurisdictions. However, today we find ourselves saddled with a Court that has lower thresholds and standards than those found in our national courts. That is simply unacceptable.

To illustrate that, paragraphs 49 and 50 of the report mention ongoing investigations into the situation in Kenya. The integrity of the investigations in the Kenyan cases has been called into question owing to the alarming but credible revelations that the witnesses were procured with promises of reward. The efficacy of that information, which is now more than eight years old and is still being received by the Court, is now even more suspect. Furthermore, the revelations of witness tampering that led 190 members of the Parliament of the Republic of Kenya to petition the President of the Security Council and the President of the Assembly of States Parties, seeking their intervention in resolving this, remains unanswered. Under the guise of judicial and prosecutorial independence, we have to date received no substantive response from the Court, the Office of the Prosecutor or the Assembly. The studious, calculated silence of some Member States is particularly troubling.

During the reporting period, 2,571 victims were admitted to participate in proceedings before the Court. It is Kenya's experience that the issue of admitting victims remains a likely avenue for abuse. We are concerned that adequate measures are not in place to ensure that only genuine victims, and indeed witnesses, are included in the proceedings and

availed the protections laid out in the Rome Statute. Notwithstanding the huge financial outlay and the pressure on an already overstretched budget, we remain concerned that any attempt to raise that matter continues to be met by stiff resistance, again, under the guise of protecting the independence of the Court and its organs.

Another matter of concern to Kenya is that, save for a casual mention in paragraph 83, the report fails to address the very pertinent issue of financing of Security Council referrals. Despite the heated and sometimes unpleasant discussions we hold in the General Assembly annually, Kenya's effort to have a genuine discussion on this pertinent matter continues to be met by dogged resistance on the part of some States parties and some non-States parties alike. Yet again, we find the Court unable to unshackle itself from the influence of a group of Member States, which continue to use their might, as major contributors to the budgets of international organizations, to block any discussions on the matter. If the Court is to make any meaningful impact, the General Assembly must take its rightful place and address this problem, notwithstanding any manipulation on the part of a country or group of countries.

The ICC was never intended to replace national courts and is a court of last resort. Therefore, greater emphasis should be accorded to supporting national and regional initiatives. In that regard, African States have tried to engage constructively with the International Criminal Court with little success. Despite all our individual and collective efforts to initiate and develop an enabling environment for constructive dialogue with the ICC, that has not happened. We therefore appreciate the cogent remarks of the representative of Japan, who said that "the ICC and its States parties should listen to the concerns expressed by the wider audience" (*A/71/PV.37, p.12*). The representative of New Zealand insisted that Africa's problems with the ICC "merit careful consideration" (*ibid, p.13*). Yes, indeed they do.

The attempts of members of the African Union's open-ended ministerial committee on the ICC to meet with the Security Council continue to be thwarted through an arcane, self-serving reading and interpretation of the Security Council's rules of procedure. On the sidelines of the General Assembly high-level week in September, a planned meeting failed to take place because of a mismatch in the levels of representation. It should be noted for the record that, before this meeting was called off, the Ministers for Foreign Affairs of five African countries were present at the appointed time and venue, in line with the established rules and practices of diplomatic engagement, and were ready to proceed, to no avail.

Chapter III, section B, of the report is entitled "Cooperation with and assistance from States, other international organizations and civil society". Once again, Kenya takes note of what is a glaring omission in paragraph 98, that is, the absence of any mention of the African Union. We are convinced that the African Union continues to be largely ignored by the ICC. One would think that, as the bulk of the work is centred in Africa, there would be a greater and more proactive effort on the part of the Court to increase its interaction and cooperation with the African Union and the African member States.

Given the obvious lack of interaction, we can only conclude that the ICC is not ready to engage constructively with African States. That unfortunate state of affairs must be discouraged. All well-meaning suggestions of remedial action have fallen on deaf ears. The representative of Tanzania made a very thoughtful and well-balanced presentation. He urged us to make deliberate efforts to talk to one another — I may add, not at one another. The representative of China urged us to respect the sovereign right of African States to make their own decisions.

In conclusion, this perfunctory report we have in front of us fails to tackle the real issues facing the ICC and fails to offer any insight on possible pragmatic solutions as we proceed. None of the organizational realities and challenges that the Court has faced in implementing its mandate are contained in this report. It curiously lacks deep analysis and a well-thought-out, balanced perspective. The continued silence of Member States as we fail to identify the real issues affecting the ICC and instead just gloss over them will undermine the legitimacy of the Court. Kenya's continued acceptance of the status quo would only undermine the legitimacy of the Court and its core mandate — the fight against impunity.

**Mr. Yaremenko** (Ukraine): The International Criminal Court (ICC) is the only permanent international court established to put an end to impunity for the perpetrators of the most serious crimes of international concern and thereby to contribute to the prevention of such crimes as well as to the progressive development of international criminal law.

We welcome the steady progress of the Court as it deals with more cases and situations than ever. We appreciate the ICC's examination of the situation in Ukraine in terms of crimes against humanity and war crimes, following our declarations under article 12, paragraph 3, of the Rome Statute, and we look forward to the outcome of its work. Ukraine also hails the Court's recent judgments on offences against the administration of justice and the war crime of attacking world heritage sites. It is important for the Court to be able to intervene in situations where violence is under way.

More specifically, the ICC must be able to fully exercise its deterring role, as Ukraine is affected by the hostile and aggressive actions of the Russian Federation, rendering thousands within the military and civilian population — including women and children — killed, wounded or gone missing, not to mention over a million internally displaced persons. In that regard, we cannot overestimate the importance of States' cooperation in combating serious crimes.

Ukraine actively participated in the Preparatory Committee on the Establishment of an International Criminal Court, signed the Rome Statute and was the first non-State party to ratify the Agreement on the Privileges and Immunities of the ICC. However, the Rome Statute provisions on the complementarity of the Court were in contradiction to Ukraine's Constitution. Today we are pleased to announce that the Ukrainian parliament has recently adopted a constitutional amendment, paving the way for Ukraine to ratify the Rome Statute. We are currently drafting the enabling legislation.

In that connection, we are particularly concerned over the recent withdrawal of a number of African countries from the Rome Statute. We echo the sentiment of the President of the Assembly of States Parties, Mr. Sidiki Kaba, when he said that the international community must remain united to face the enormous challenge of preventing the commission of the most serious crimes and prosecuting the alleged perpetrators — whoever and wherever they are — to ensure peace, stability and security in the world. The international community must consolidate its support for ICC efforts to ensure universal justice for all victims of mass crimes.

In that context, it is of paramount importance that 32 States parties have already ratified the amendments to the Rome Statute of the International Criminal Court on the crime of aggression. We look forward to a decision by the Assembly of States Parties to activate the Court's jurisdiction over such crimes in the very near future. However, we regret the restricted scope of the ICC's authority inasmuch as it would have no jurisdiction over non-States parties or States parties that do not ratify the amendment unless the case is referred by the Security Council.

Still, we put our trust in the Court, which has already established itself as an efficient universal mechanism to promote the rule of law and to ensure that the gravest international crimes do not go unpunished. By failing to bring those responsible for the worst crimes to justice, we incite violence in the rest of the world. All those who intend to commit the gravest international crimes must be sure that punishment is inevitable regardless of their position or nationality.

**Mr. Shingiro** (Burundi) (*spoke in French*): I would like to begin my statement by thanking the President of the International Criminal Court (ICC), Judge Silvia Fernández de Gurmendi, for her thorough presentation of the annual report of the ICC (A/71/342), submitted this morning for our review.

My delegation has taken note of and reviewed the Court's annual report on its work during the 2015-2016 reporting period, which was introduced this morning before the General Assembly, pursuant to article 6 of the Relationship Agreement between the United Nations and the International Criminal Court and paragraph 28 of resolution 70/264. Before entering into detailed remarks, my delegation wishes to reiterate Burundi's commitment to the principle shared by many — to fight against impunity in all of its forms and manifestations. Burundi also supports the principle that impartial and equitable justice contributes greatly to the consolidation of peace and reconciliation within communities emerging from conflict. Moreover, we are firmly committed to the principles of non-selectivity, objectivity and non-politicization of international justice. In Burundi's view, international justice as a complement to national jurisdiction is a noble principle and one that must not be subjected to political calculations.

Since the adoption of the Rome Statute, which established the International Criminal Court in 1998, and its entry into force on 1 July 2002, following its ratification by 60 States, the Court has seen its share

of highs and lows in carrying out its functions and in dispensing justice on behalf of the victims of all types of crimes. Despite its efforts in providing justice for victims, we nevertheless deplore the occurrence from time to time and in various places of violations of the sacred principles that underpin the legal basis of the countries concerned and of the Charter of the United Nations.

I begin with the principle of complementarity of international justice, which is considered, as we know, the backbone of the Rome Statute of the International Criminal Court. The Rome Statute, to which 124 States subscribe, was never intended to replace the national jurisdiction of the States parties. Once again, we emphasize the importance of the principle of complementarity, according to which the ICC can be seized of a matter only if the State concerned has neither the will nor the ability to prosecute those guilty of the most serious crimes committed on its territory.

It is not redundant here to recall that complementarity is at the core of the Rome Statute because the fight against impunity depends on efforts to build and strengthen the national capacities required to carry out investigations and conduct trials in cases of the most serious crimes. We therefore hope that the ICC will finally recognize the jurisdiction of the States' courts and tribunals to try crimes committed on their national territories. Moreover, we note — in what is an unfortunate observation — that the principle of the primacy of national jurisdiction, enshrined in the Rome Statute, is not being applied as it should be in certain situations referred to the Court.

In that regard, it is not surprising to see that the impartiality and objectivity of the Court is being called into question by a growing number of States. Public opinion in Africa has begun to see the Court as the juridical realm of certain so-called powerful countries. We believe that African countries should reconsider their accessions to the Rome Statute because the International Criminal Court has recently become a biased instrument at the service of a category of countries, a tool with which to exercise political pressure and, in some cases, to effect regime change in developing countries, in general, and African countries, in particular.

Furthermore, my delegation recalls that the selectivity, the lack of objectivity and the tendency towards politicization which the Court has shown in its targeting of only African States and Heads of State, led to the convening of an extraordinary session of the Assembly of the African Union on 12 October 2013. It is clear that the ICC is focusing all of its attention on Africa, while unacceptable situations in other parts of the world go unacknowledged.

We are concerned by the fact that the ICC budget is more than 50 per cent dependent on the voluntary contributions of Member States. This lack of a proper budget seriously calls the Court's independence into question, and it sometime finds itself overwhelmed by political pressure exerted by those most responsible for its financial straits.

The substance of my comments, which are by no means exhaustive, has recently compelled Burundi to withdraw from the list of States parties to the Rome Statute of the International Criminal Court at the explicit request of the people of Burundi through a joint session of the two Houses of their Parliament. The notification letter was officially transmitted on 7 October to the Secretary-General, in accordance with the procedure provided for in the Statute. We have duly noted the requests of delegations addressed to States that have recently withdrawn from the International Criminal Court, or are in the process of doing so, to reconsider their positions. Let me recall, however, that accession to an international treaty is an act that falls exclusively within the realm of national sovereignty. Similarly, withdrawal from a treaty to which a State is party is a sovereign decision and should not elicit the amount of commentary from other Member States that it has.

In conclusion, my delegation reiterates its firm commitment to the fight against impunity in all its forms and manifestations. My country, Burundi, sincerely believes in the primacy of national jurisdiction and the objectivity, non-selectivity and non-politicization of international justice. Until those principles are strictly observed, the International Criminal Court will have difficulty convincing all the States parties of its impartiality, as enshrined in the Statute. In the interests of its survival and of international justice, the Court should acknowledge its shortcomings and agree to a comprehensive reform, to meet the legitimate concerns of various developing countries with regard to its functioning and its current policy of double standards, which has affected several African leaders. In the absence of such a structural reform, which we all desire, those injured States parties will have no

choice other than to call for the establishment of a truly independent, impartial and equitable international criminal jurisdiction, capable of resisting political pressures from the so-called powerful countries and of exercising its jurisdiction in any country, regardless of the latter's size, geographical location or level of development.

**Mr. Medina** (Bolivarian Republic of Venezuela) (*spoke in Spanish*): My delegation thanks the President of the International Criminal Court, Silvia Fernández de Gurmendi, for introducing the annual report of the Court (A/71/342) to the General Assembly, in accordance with article 6 of the Relationship Agreement between the United Nations and the International Criminal Court, on the work performed by the Court in fighting impunity and promoting justice for the victims of crimes, in accordance with the Rome Statute.

As a State party to the International Criminal Court since its establishment in 2002, the Bolivarian Republic of Venezuela champions and supports the strengthening of its institutional standing and effectiveness in carrying out its functions, thereby promoting its universalization in order to strengthen the rule of law at the national and international levels. In that regard, cooperation is an essential aspect in achieving the objectives of the Court.

Venezuela supports the efforts of the International Criminal Court to ensure that justice and accountability are respected and that the Court can promote the establishment of a comprehensive and effective justice system in accordance with the principles of autonomy, independence, impartiality and objectivity enshrined in the Rome Statute.

**Mr. Musikhin** (Russian Federation) (*spoke in Russian*): During the Assembly's debate on resolution 58/318 on cooperation between the United Nations and the International Criminal Court (ICC), the Russian delegation laid out a detailed account of our understanding of the problems within and around the Court, which have unfortunately been increasingly compounded in recent years. Without going into it again, we will note only that the statements of a number of States about their withdrawal from the Rome Statute have affirmed the validity of our opinions about the Court. We urge the Court to look at the situation objectively. It is time to move on from the romantic views that prevailed when the Statute was being framed and to be realistic.

The decision on whether to participate in international treaties is a State's sovereign right, and there is therefore no point in trying to put pressure on countries that withdraw from the ICC. The political and legal reasons they give are understandable and should be respected, and we are not hearing about them for the first time. However, all of these States' attempts to have their voices heard, and all their proposals for modifications of the Court's practices, including those pertaining to customary laws concerning immunity for senior officials, have been ignored. And yet for a long time there has been good reason to look critically at the work of the Court and analyse its shortcomings.

The statements made by the representatives of Georgia and Ukraine are glaring examples of attempts to exploit the International Criminal Court for political and propaganda purposes. We have already commented often on the merits of such attacks. With regard to the Court's ongoing preliminary investigation of the situation in Ukraine, we would like to draw attention to the shocking brutality of the crimes committed by the Kyiv authorities and the radicals loyal to them. I should point out that the source of that information is the latest report of the Office of the United Nations High Commissioner for Human Rights (OHCHR) on the human rights situation in Ukraine.

To give examples, the report cites horrifying cases of sexual and gender-based violence against both women and men by Ukrainian armed forces and law enforcement. I cannot bring myself to repeat in the General Assembly the descriptions of the atrocities documented in the report. Ramrods, electric shocks and hot plastic are used as instruments of torture. Besides the sexual and gender-based violence, the report describes beatings — in one case, a woman was beaten about the head with a metal pipe — and threats of murder and rape, including of minors. In another instance, a man was arrested in a Government-controlled area in the Donetsk region. He was taken a shooting range in the basement of the Security Service of Ukraine (SBU) building in Mariupol, where he was beaten, suffocated with a plastic bag, submerged in cold water and had his ribs broken by a man who jumped on his torso. Four additional verified cases from 2015 corroborate the use of the Mariupol SBU building for incommunicado detention and torture. Those are just some examples of a series of crimes committed by the Ukrainian armed forces and law-enforcement authorities and cited in the report. In general, the report notes that about 70 per

cent of the cases recorded by OHCHR involved torture, ill-treatment or incommunicado detention before the detainees were transferred to the Ukrainian criminal justice system.

At the same time, paragraph 64 of the report says that OHCHR is "concerned by the lack of progress in investigations into the conduct of Ukrainian armed forces and SBU". One example noted is the absence of any investigation into the 2 June 2014 aerial attack on the Luhansk Regional State Administration building, which resulted in the deaths of seven civilians. As the report notes, with regard to cases related to the bloody events of 2 May 2014 in Odessa, significant pressure continues to be put on the judiciary. I want to emphasize that all of this information comes not from the Russian media but from data collected by the Office of the High Commissioner for Human Rights, which operates in Ukraine on the invitation of the Government. Despite all the shortcomings in OHCHR implementation of its mission, which we have repeatedly drawn attention to, even it could not ignore these kinds of facts. We shall see how the ICC responds to them and much similar information.

We would like to encourage delegations to think about this information and take it into account, including when considering their positions on the draft resolution on human rights in Crimea submitted by Ukraine in the Third Committee. Against the backdrop of lawlessness instituted by the Kyiv authorities in their own country, that draft resolution looks particularly hypocritical, and support for it will strengthen their belief in their impunity and encourage them to continue to commit crimes against their citizens and to direct hate speech at Russia and all things Russian.

**The Acting President** (*spoke in French*): We have heard the last speaker in the debate on this item.

Several representatives have asked to speak in exercise of the right of reply. I would like to remind members that statements in exercise of the right of reply are limited to 10 minutes for the first statement and to five minutes for the second, and should be made by delegations from their seats.

**Mr. Yaremenko** (Ukraine): I would like to exercise my right of reply with regard to the statement just made by the representative of the Russian Federation. I would first like to emphasize all of my Government's commitments on human rights. We take all cases of violations of human rights of any kind very seriously, including those alleged to be by our armed forces. I can assure the Assembly that we investigate such cases scrupulously and with the intention of bringing all the perpetrators to justice.

Secondly, I would like to remind the Assembly that the root cause of the situation in Ukraine is the Russian Federation's aggression against my country. Two and a half years ago, the Russian Federation occupied the Autonomous Republic of Crimea and the city of Sevastopol. Since then, it has committed crimes and acts of aggression against my country in various parts of the Donbas region. My country invited the Office of the United Nations High Commissioner for Human Rights to come to Ukraine. We have provided every assistance to its Monitoring Mission there and have been entirely open and transparent where its work is concerned. However, in contravention of the Mission's mandate, it has had no access to the temporarily occupied part of Ukraine — that is, the Autonomous Republic of Crimea. We therefore ask our colleagues from other delegations to support our draft resolution, which will be introduced in the Third Committee today. Its main focus is on access and reporting. That is it.

I would once again like to emphasize that the Russian Federation is responsible for the aggression against my country, and that is the root cause of the situation in Ukraine.

**Mr. Alarsan** (Syrian Arab Republic) (*spoke in Arabic*): A number of statements delivered to present the positions of countries on the report of the International Criminal Court have addressed to the situation in my country. They demanded, in a surprising manner, that international justice be brought to Syria and that the Syrian issue be referred to the International Criminal Court. Regrettably, most of statements in which such a demand has been made have been selective and politicized. They spoke in conformity with the positions of the countries that delivered them with regard to the ignominious terrorist war being waged against my country Syria.

We would have liked to have heard the voices of those delegations in other international forums and platforms of the United Nations calling for the fight against terrorism in my country, Syria, before coming to this meeting to demand that so-called international justice be brought to my country. Some statements today have ignored the fact that many States criticize the fact that the Court's mandate is limited to certain

States and not others, and to certain cases, and not others.

These statements even ignore the reasons that pushed some States to withdraw from the Court, including the shortcomings in the Court's work, its weak performance and its weak mandate as a result of the politicization of its works, and because it has become, like many international bodies and organizations, a tool in the hands of some super-Powers that use the United Nations and its agencies, bodies and other international entities to serve their own political plans.

If that is not so, who in this Assembly can convince us that there are States that signed the Rome Statute with the right hand, and with the left an agreement to grant immunity to soldiers of certain countries or a certain country from the mandate of the International Criminal Court? Everyone knows to whom we are referring when we talk about bilateral conventions signed by some States parties to a specific treaty in order to grant immunity to that State's soldiers from the mandate of the Rome Statutes.

I am not here to defend a particular position, but the responsible attitudes of the Russian Federation, China and other States in the Security Council have ensured that Syria has not as yet ended up facing the same bleak fate of countries like Yemen and Iraq. Who can convince us that some whose brave voices we heard today in this Assembly talking about alleged war crimes in Syria, but whose voices fall silent when the so-called international coalition forces in Syria commit crimes that are actually war crimes against the Syrian Arab Army fighting Da'esh terrorism and against Syrian civilians who are bombarded and killed by warplanes of the international coalition — or what is wrongly called an international coalition against terrorism?

**Ms. Agladze** (Georgia): For the record, I would like to state one more time that we have heard an account from the Russian Federation that is once again designed to mislead the international community about its ongoing aggression against sovereign neighbouring States, while Georgia, in sharp contrast, referred in its statement only to citations and conclusions from the Pre-Trial Chamber decision of 27 January. As we said, we would like to reiterate that we are committed to cooperating with the Court in order to uncover the truth and bring justice to the victims.

**The Acting President** (*spoke in French*): The Assembly has thus concluded this stage of its consideration of agenda item 72.

*The meeting rose at 5.25 p.m.*

United Nations A/71/PV.39

General Assembly
Seventy-first session

Official Records

39th plenary meeting
Wednesday, 2 November 2016, 10 a.m.
New York

*President:* Mr. Thomson ..... (Fiji)

*The meeting was called to order at 10.15 a.m.*

**Agenda item 13** (*continued*)

**Integrated and coordinated implementation of and follow-up to the outcomes of the major United Nations conferences and summits in the economic, social and related fields**

**Plenary meeting to discuss action-oriented recommendations to address the socioeconomic and environmental impacts of the 2015/16 El Niño phenomenon**

**The President**: Since the General Assembly adopted resolution 70/110, on the global impacts of the 2015/16 El Niño phenomenon last December, the lives of over 60 million people across our world have suffered the devastating impact of El Niño. Extreme droughts across Southern Africa have caused massive crop failures, leaving millions of people without enough food. Catastrophic hurricanes have moved across the Caribbean, devastating tropical cyclones have battered the Pacific and South-East Asia, and, in Ecuador, widespread flooding and landslides have struck communities.

The El Niño phenomenon has severely disrupted global rainfall patterns, leading to both disastrous flooding and prolonged droughts. The compounding effects of climate change and El Niño have seen an increase in the intensity, frequency and variability of extreme weather events, hitting those countries least responsible for climate change first and hardest. It is predicted that these extreme weather events will worsen in future.

The humanitarian impacts of El Niño have been profound, creating massive need across our world, increasing food insecurity and malnutrition, exacerbating outbreaks of infectious respiratory and waterborne diseases, disrupting health and education services, upending livelihoods and forcibly displacing people and communities. Meanwhile, the prospects for achieving the Sustainable Development Goals in countries affected by the El Niño phenomenon are being undermined.

Urgent action is required. Comprehensive, long-term strategies are needed to build early-warning systems, to strengthen the resilience of vulnerable countries, and to prevent, mitigate and repair the adverse socioeconomic and environmental impacts. Humanitarian responses need to be scaled up with financial, technical and capacity-building support provided to countries and people in need. Greater collaboration and information exchange is required, including through the collection and sharing of timely and accurate data between relevant institutions and networks.

Importantly, global awareness and an understanding of El Niño and climate change are also essential. To this end, I commend the Secretary-General for his prescient decision earlier this year to appoint the former President of Ireland, Mrs. Mary Robinson, and the Permanent Representative of Kenya, Mr. Macharia Kamau, as his Special Envoys for El Niño and Climate, and to give them the task of bringing the message to the world.

This record contains the text of speeches delivered in English and of the translation of speeches delivered in other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-0506 (verbatimrecords@un.org). Corrected records will be reissued electronically on the Official Document System of the United Nations (http://documents.un.org).

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The Special Envoys are already having an impact, travelling to El Niño-affected communities in Ethiopia, Mozambique, Papua New Guinea and Timor-Leste in order to understand and raise awareness of challenges and priorities.

As has been said, more than 60 million people around our world are affected by severe El Niño-linked weather events. As a recurring global phenomenon, rather than a one-off event, addressing the impacts of El Niño requires a comprehensive and coordinated approach. Implementing the Sendai Framework for Disaster Risk Reduction, the 2030 Agenda for Sustainable Development and the Paris Agreement on Climate Change are all critical to these efforts.

Let us therefore commit ourselves to implementing urgently, effectively and at scale these global agreements and to addressing the socioeconomic and environmental effects of the El Niño phenomenon.

**Mr. Meza-Cuadra** (Peru) (*spoke in Spanish*): Due to its geographical location and the characteristics of its territory, Peru is highly vulnerable to natural disasters whose impacts can affect the lives, development and livelihoods of our citizens, in particular the poorest. That is why Peru has a State policy for disaster-risk management as part of our development agenda. Within the framework of the Sendai Framework for Disaster Risk Reduction 2015-2030, clear global targets and practical measures for action are set out, thereby highlighting the cross-cutting nature of disaster risk management as an essential component of sustainable development.

The 2015/16 El Niño phenomenon was the strongest since 1997. Thanks to the concerted efforts of the World Meteorological Organization and national and regional climate centres, it has been possible to carry out preventive actions that greatly mitigate the negative effects of this phenomenon. In Peru, the cost of the preventive measures adopted by our Central Government is estimated to be $505 million. Those measures enabled us avoid losses of $3.5 billion, which is equivalent to 0.2 per cent of Peru's gross domestic product. The total losses during the 1982-1983 and 1997-1998 events amounted to $3.283 billion and $3.5 billion, respectively. Those figures are equivalent to 11.6 per cent and 6.2 per cent of the gross domestic product in their respective years. In both cases, the productive sectors, such as agriculture, fisheries and livestock, were the most affected. During the 2015/16 El Niño phenomenon, the agricultural sector and its fields were insured through a farming insurance plan that covered more than 550,000 hectares of crops in eight extremely poor regions in rural areas. Similarly, under the plan, 525,000 head of cattle were covered, and 15,000 hectares of grass were planted to feed some 265,200 animals.

We would like to share some of the lessons learned from the recent El Niño phenomenon with a view to ensuring that our risk- and disaster-management policy reach all our people. Significant efforts are required to ensure the implementation of the Sendai Framework and thereby achieve the goals of the 2030 Agenda for Sustainable Development and the Paris Agreement on Climate Change. The main lessons learned in Peru in relation to the 2015/16 El Niño phenomenon are the following.

Close cooperation between the Government and the population is needed. To avoid further damage, multisectoral action should be taken at all levels of Government. The implementation of disaster-risk-management policies are necessary so that appropriate action may be taken. A monitoring system for detecting quarantine pests must be maintained. Joint cooperation with neighbouring countries, such as our cooperation with Ecuador, is essential. Adequate safety measures and productive infrastructure near riverbeds should be set up to prevent overflows during periods of El Niño. Micro-reservoirs should be maintained to ensure that water is available for agriculture and livestock during droughts. Improving the accuracy of early-warning systems with respect to reach, notification and awareness-raising of vulnerable populations is key. To maximize resources, coordination with local authorities is crucial. These are just some of the main lessons learned by Peru in dealing with the El Niño phenomenon.

We also welcome the United Nations efforts to address these challenges, such as the recent appointment of the Special Envoys of the Secretary-General on El Niño and Climate last May. Moreover, there has been an increase in international cooperation for developing countries to complement the measures taken at the national level to implement the Sendai Framework and, in the broader context, the 2030 Agenda for Sustainable Development.

**Mr. Cadena** (Ecuador) (*spoke in Spanish*): The most recent report of the World Meteorological Organization on the El Niño phenomenon confirms that, in May

2016, we reached the end of the peak period for El Niño 2015/16. El Niño affected more than 60 million people and their livelihoods and had an economic impact that even now is difficult to measure. Individuals and families who depend on agriculture, fisheries and livestock were particularly affected. The weather forecasts show a high probability of a weakening of La Niña in 2016 and almost no chance of a significant episode of El Niño during 2016 and 2017.

In our region of Central America, countries and towns were particularly affected by one of the most serious droughts in the region's history. In general, there were serious effects on harvest crop volumes and road infrastructure, which led to substantial losses in crops and livestock, affecting food security throughout the region.

The Government of Ecuador addressed and reduced the adverse effects of the El Niño phenomenon 2015/16 by designing, implementing and launching six multipurpose projects over nine years through public investment, amounting to more than $1.1 billion, in order to protect citizens and their livelihoods from winter floods by means of creating reservoirs to ensure that water is available for drinking, irrigation and renewable energies. More than 142,000 hectares of crops have been protected. The ongoing implementation of public programmes for the control of insect-borne diseases, such as zika, dengue and chikungunya, along with the maintenance and regular cleaning of drainage canals, has visibly reduced the impact on our population.

It is worth noting that the Government of Ecuador has undertaken several actions in coordination with local governments, civil society and communities to strengthen the State's capacity to respond to natural disasters, always through an inclusive risk-management approach and by using an innovative georeferencing process for people with disabilities in areas of influence, in order to identify persons with disabilities and develop a family emergency plan that ensures timely attention to a possible emergency due to the adverse effects of the phenomenon. We believe that these early actions allowed us to ensure the safety of thousands of individuals and their livelihoods and represented a savings of more than $300 million in 2015-2016 by protecting cultivated land, crops, livestock and infrastructure, inter alia. We stress, however, that the effects of the devastating earthquake with a magnitude of 6.8 on the Richter scale that hit several regions in our country on 16 April 2016 exacerbated the challenges for the Government and in particular for the coastal population of my country.

Ecuador recognizes the importance of humanitarian assistance for countries that were among the most affected by El Niño phenomenon in 2015/16, and we believe the time has come to look beyond the mere humanitarian consideration of the effects of the phenomenon and undertake early activities for strengthening institutional capacities in the affected countries in order to respond adequately and in a timely manner to these effects. Ecuador thanks the Secretary-General for his report on the implementation of the Sendai Framework for Disaster Risk Reduction 2015-2030 (A/71/230), which includes a section on measures to address the socioeconomic and environmental effects of El Niño, and welcomes the appointment of Mrs. Mary Robinson and Mr. Macharia Kamau as Special Envoys on El Niño and Climate. We commend the Economic and Social Council for organizing the high-level event on this issue on 6 May 2016.

The relevance of this issue demands an ongoing discussion on the progress achieved at the global level. Ecuador believes that tackling the adverse effects of natural events that develop gradually constitutes an appropriate situation for the agencies responsible for promoting development to coordinate activities in order to provide comprehensive action-oriented recommendations and solid proposals that incorporate elements of science, technology, innovation and resilient infrastructure for the countries most affected in a timely manner and while continuing and increasing the necessary humanitarian assistance efforts. The Ecuador urges the relevant entities to be proactive, act holistically and take early action, and not just react to the challenge of El Niño. To that end, Ecuador appreciates the attention paid by Member States and notes with interest their action-oriented statements and recommendations.

**The President**: We have heard the last speaker in this plenary meeting to discuss action-oriented recommendations to address the socioeconomic and environmental impacts of the 2015/16 El Niño phenomenon.

The Assembly has thus concluded this stage of its consideration of agenda item 13.

*The meeting rose at 10.35 a.m.*

United Nations A/71/PV.40

# General Assembly

Seventy-first session

*Official Records*

**40**th plenary meeting
Thursday, 3 November 2016, 3 p.m.
New York

*President*: Mr. Thomson ..... (Fiji)

*In the absence of the President, Mr. Bin Momen (Bangladesh), Vice-President, took the Chair.*

*The meeting was called to order at 3.05 p.m.*

**Agenda item 114** (*continued*)

**Elections to fill vacancies in subsidiary organs and other elections**

**(b) Election of the members of the International Law Commission**

**Notes by the Secretary-General (A/71/90, A/71/90/Add.1, A/71/90/Add.2, A/71/90/Add.3, A/71/90/Add.4, A/71/90/Add.5 and A/71/90/Add.6)**

**Note by the Secretary-General (A/71/437 and A/71/437/Corr.1)**

**Curriculum vitae (A/71/83 and A/71/83/Add.1)**

**The Acting President**: The Assembly will proceed to the election of the members of the International Law Commission.

In accordance with the provisions of chapter I of the statute of the Commission, the 34 members of the Commission are to be elected by the General Assembly for a five-year term of office beginning on 1 January 2017 from a list of candidates nominated by the Governments of States Members of the United Nations.

The members of the Commission are eligible for re-election. The present membership of the Commission is set out in the annex to document A/71/90. The notes by the Secretary-General concerning the candidates are contained in documents A/71/90 and addenda 1 to 6.

Members will recall that the Assembly, at its 25th plenary meeting, on 6 October 2016, decided to request that the Secretary-General issue a consolidated list, incorporating new candidates and additional information on candidates received subsequent to the deadline for the submission of nominations. In that connection, the Assembly now has before it the note by the Secretary-General circulated as document A/71/437 and its corrigendum 1, which consolidates, in alphabetical order, the candidates nominated by Governments of States Members of the United Nations for election to the International Law Commission.

I should like to inform the Assembly that, as indicated in document A/71/90/Add.6, the Permanent Mission of Libya to the United Nations indicated, in a note verbale dated 27 October 2016, that it had withdrawn the candidature of Mr. Abdelrazeg el-Murtadi Suleiman Gouider to the International Law Commission. In addition, the Permanent Mission of the Sudan to the United Nations informed the Secretariat, in a note verbale dated 1 November 2016, of the withdrawal of Mr. Muaz Ahmed Tungo for election to the International Law Commission, and the Permanent Mission of Burundi to the United Nations, in a note verbale dated 2 November 2016, informed the Secretariat of the withdrawal of Mr. Révérien Habarugira for election to the International Law Commission. A total of 46 candidates are therefore eligible in this election.

This record contains the text of speeches delivered in English and of the translation of speeches delivered in other languages. Corrections should be submitted to the original languages only. They should be incorporated in a copy of the record and sent under the signature of a member of the delegation concerned to the Chief of the Verbatim Reporting Service, room U-0506 (verbatimrecords@un.org). Corrected records will be reissued electronically on the Official Document System of the United Nations (http://documents.un.org).



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The notes by the Secretary-General concerning the statements of qualifications of candidates are contained in documents A/71/83 and its addendum 1.

I should like to recall for members that, in accordance with the statute of the International Law Commission, the Commission should consist of persons of recognized competence in international law; the persons to be elected to the Commission should individually possess the qualifications required; and in the Commission as a whole, representation of the main forms of civilization and of the principal legal systems of the world should be ensured.

Pursuant to paragraph 3 of resolution 36/39, of 18 November 1981, the 34 members should be elected as follows: eight nationals from African States; seven nationals from Asia-Pacific States; four nationals from Eastern European States; seven nationals from Latin American and Caribbean States; and eight nationals from Western European and other States. The ballot papers reflect that pattern.

As provided for in the statute of the International Law Commission, those candidates, up to the maximum number prescribed for each regional group, receiving the greatest number of votes and not less than a majority of the votes of the Member States present and voting, shall be declared elected.

If the number of candidates obtaining a simple majority is less than the number of members to be elected, there shall be additional ballots to fill the remaining places, the voting being restricted to the candidates obtaining the greatest number of votes in the previous ballot to a number not more than twice the places remaining to be filled.

Also, consistent with past practice, if, in the case of a tie vote, it becomes necessary to determine the candidate to be elected or to proceed to the next round of restricted balloting, there will be a special restricted ballot limited to the candidates who have obtained an equal number of votes.

May I take it that the General Assembly agrees to these procedures?

*It was so decided.*

**The Acting President**: In accordance with rule 92 of the rules of procedure of the General Assembly, the election shall be held by secret ballot. Before we begin the voting process, I should like to remind members that, pursuant to rule 88 of the rules of procedure of the General Assembly, no representative shall interrupt the voting except on a point of order on the actual conduct of the voting. In addition, ballot papers will be given only to the representative seated directly behind the country's nameplate.

I would like to seek the usual cooperation of representatives during the time of the conduct of the election and to remind them that during the voting process, all campaigning should cease in the General Assembly Hall. That means, in particular, that once the meeting has begun, no more campaign material may be distributed inside the Hall.

All representatives are also requested to remain at their seats so that the voting process can proceed in an orderly manner. I thank them for their cooperation.

We shall now begin the voting process. Members are requested to remain seated until all ballots have been collected.

Ballot papers marked "A", "B", "C", "D" and "E" will now be distributed. Representatives are requested to use only those ballot papers that have been distributed. Each ballot paper contains the names of the candidates eligible in this round of balloting.

Representatives are requested to place a cross to the left of the names of the candidates for whom they wish to vote. Representatives may vote only for those candidates whose names appear on the ballot papers, and for no more than the number of seats allocated to each region. A ballot paper containing more votes than the number of seats allocated to the relevant region will be declared invalid.

Accordingly, members should ensure that the ballot papers marked "A" for African States do not contain votes for more than eight candidates; that the ballot papers marked "B" for Asia-Pacific States do not contain votes for more than seven candidates; that the ballot papers marked "C" for Eastern European States do not contain votes for more than four candidates; that the ballot papers marked "D" for Latin American and Caribbean States do not contain votes for more than seven candidates; and that the ballot papers marked "E" for Western European and other States do not contain votes for more than eight candidates.

*At the invitation of the Acting President, Mr. Rosa (Angola), Mr. Hajiyev (Azerbaijan), Ms. Hung (Canada), Mrs. Le Diffard (Hungary),*

*Mrs. Rolón Candia (Paraguay), Mr. Guisse (Senegal), Ms. Eymann (Switzerland), Mr. Alshamsi (United Arab Emirates) and Mr. Pérez Ayestarán (Bolivarian Republic of Venezuela) acted as tellers.*

*A vote was taken by secret ballot.*

*The meeting was suspended at 3.25 p.m. and resumed at 6 p.m.*

**The Acting President**: The result of the voting is as follows:

*Group A — African States*

| | |
|---|---|
| Number of ballot papers: | 193 |
| Number of invalid ballots: | 0 |
| Number of valid ballots: | 193 |
| Abstentions: | 0 |
| Number of members voting: | 193 |
| Required simple majority: | 97 |
| Number of votes obtained: | |
| Mr. Ahmed Laraba (Algeria) | 160 |
| Mr. Yacouba Cissé (Côte d'Ivoire) | 156 |
| Mr. Dire Tladi (South Africa) | 153 |
| Mr. Chris Maina Peter (United Republic of Tanzania) | 146 |
| Mr. Hussein Hassouna (Egypt) | 143 |
| Mr. Amos Wako (Kenya) | 140 |
| Mr. Charles C. Jalloh (Sierra Leone) | 131 |
| Mr. Hassan Ouazzani Chahdi (Morocco) | 130 |
| Mr. Koffi Kumelio Afande (Togo) | 124 |
| Mr. Tiyanjana Maluwa (Malawi) | 116 |
| Mr. Emmanuel Ugirashebuja (Rwanda) | 76 |

*Group B — Asia-Pacific States*

| | |
|---|---|
| Number of ballot papers: | 193 |
| Number of invalid ballots: | 2 |
| Number of valid ballots: | 191 |
| Abstentions: | 0 |
| Number of members voting: | 191 |
| Required simple majority: | 96 |
| Number of votes obtained: | |
| Mr. Aniruddha Rajput (India) | 160 |
| Mr. Shinya Murase (Japan) | 148 |
| Mr. Mahmoud Daifallah Hmoud (Jordan) | 146 |
| Mr. Huikang Huang (China) | 146 |
| Mr. Ki Gab Park (Republic of Korea) | 136 |
| Mr. Ali bin Fetais Al-Marri (Qatar) | 128 |
| Mr. Hong Thao Nguyen (Viet Nam) | 120 |
| Mr. Djamchid Momtaz (Islamic Republic of Iran) | 114 |
| Mr. Rahmat Mohamad (Malaysia) | 106 |
| Mr. Nugroho Wisnumurti (Indonesia) | 102 |

*Group C — Eastern European States*

| | |
|---|---|
| Number of ballot papers: | 193 |
| Number of invalid ballots: | 0 |
| Number of valid ballots: | 193 |
| Abstentions: | 0 |
| Number of members voting: | 193 |
| Required simple majority: | 97 |
| Number of votes obtained: | |
| Mr. Ernest Petrič (Slovenia) | 164 |
| Mr. Pavel Šturma (Czech Republic) | 160 |
| Mr. Bogdan Aurescu (Romania) | 158 |
| Mr. Roman Anatolyevitch Kolodkin (Russian Federation) | 149 |
| Mr. Gentian Zyberi (Albania) | 111 |

*Group D — Latin American and Caribbean States*

| | |
|---|---|
| Number of ballot papers: | 193 |
| Number of invalid ballots: | 3 |
| Number of valid ballots: | 190 |
| Abstentions: | 0 |
| Number of members voting: | 190 |
| Required simple majority: | 96 |
| Number of votes obtained: | |
| Mr. Eduardo Valencia-Ospina (Colombia) | 148 |
| Mr. Claudio Grossman Guiloff (Chile) | 146 |
| Mr. Carlos Argüello Gómez (Nicaragua) | 142 |
| Mr. Juan Manuel Gómez-Robledo (Mexico) | 140 |
| Mr. Gilberto Vergne Saboia (Brazil) | 139 |
| Mr. Juan José Ruda Santolaria (Peru) | 131 |
| Mr. Marcelo Vazquez-Bermúdez (Ecuador) | 125 |
| Mr. Marcelo Gustavo Kohen (Argentina) | 106 |
| Mr. Manuel Ventura Robles (Costa Rica) | 105 |
| Mr. Gélin Imanès Collot (Haiti) | 98 |

*Group E — Western European and other States*

| | |
|---|---|
| Number of ballot papers: | 193 |
| Number of invalid ballots: | 0 |
| Number of valid ballots: | 193 |
| Abstentions: | 0 |
| Number of members voting: | 193 |
| Required simple majority: | 97 |
| Number of votes obtained: | |
| Ms. Marja Lehto (Finland) | 175 |

| | |
|---|---|
| Mr. Georg Nolte (Germany) | 167 |
| Ms. Patrícia Galvão Teles (Portugal) | 151 |
| Mr. August Reinisch (Austria) | 145 |
| Mr. Sean David Murphy (United States of America) | 144 |
| Ms. Nilüfer Oral (Turkey) | 144 |
| Ms. Concepción Escobar Hernández (Spain) | 141 |
| Mr. Michael Wood (United Kingdom) | 141 |
| Mr. Chester Brown (Australia) | 136 |
| Mr. Mathias Forteau (France) | 134 |

*Having obtained the required majority and the greatest number of votes, Mr. Ali bin Fetais Al-Marri (Qatar), Mr. Carlos J. Argüello Gómez (Nicaragua), Mr. Bogdan Aurescu (Romania), Mr. Yacouba Cissé (Côte d'Ivoire), Ms. Concepción Escobar Hernández (Spain), Ms. Patrícia Galvão Teles (Portugal), Mr. Juan Manuel Gómez-Robledo (Mexico), Mr. Claudio Grossman Guiloff (Chile), Mr. Hussein Hassouna (Egypt), Mr. Mahmoud Daifallah Hmoud (Jordan), Mr. Huikang Huang (China), Mr. Charles C. Jalloh (Sierra Leone), Mr. Roman Anatolyevitch Kolodkin (Russian Federation), Mr. Ahmed Laraba (Algeria), Ms. Marja Lehto (Finland), Mr. Shinya Murase (Japan), Mr. Sean David Murphy (United States of America), Mr. Hong Thao Nguyen (Viet Nam), Mr. Georg Nolte (Germany), Ms. Nilüfer Oral (Turkey), Mr. Hassan Ouazzani Chahdi (Morocco), Mr. Ki Gab Park (Republic of Korea), Mr. Chris Maina Peter (United Republic of Tanzania), Mr. Ernest Petrič (Slovenia), Mr. Aniruddha Rajput (India), Mr. August Reinisch (Austria), Mr. Juan José Ruda Santolaria (Peru), Mr. Gilberto Vergne Saboia (Brazil), Mr. Pavel Šturma (Czech Republic), Mr. Dire Tladi (South Africa), Mr. Eduardo Valencia-Ospina (Colombia), Mr. Marcelo Vázquez-Bermúdez (Ecuador), Mr. Amos Wako (Kenya) and Mr. Michael Wood (United Kingdom of Great Britain and Northern Ireland) were elected members of the International Law Commission for a five-year term of office beginning on 1 January 2017.*

**The Acting President**: I congratulate all 34 persons who have been elected to the International Law Commission, and I thank the tellers for their assistance in this election.

The General Assembly has thus concluded its consideration of sub-item (b) of agenda item 114.

*The meeting rose at 6.15 p.m.*